

Act 23/2007
4 July 2007

This Act approves the legal framework of entry, permanence, exit and removal of foreigners into and out of national territory.

The Assembly of the Republic decrees, in accordance to subparagraph c) of article 161º of the Constitution, the following:

CHAPTER I

General Provisions

Article 1º

Purpose of the Act

The present law establishes the conditions and procedures on the entry, permanence, exit and removal of foreign citizens from Portuguese territory, as well as the status of long term resident.

Article 2.º

Transposition of Directives

- 1- This law transposes into the internal juridical framework the following EU directives:
 - a) Council Directive n. º 2003/86/CE, of 22 September 2003, concerning family reunion;
 - b) Council Directive n. º 2003/110/CE, of 25 de November 2003, concerning the assistance in case of removal of foreigners by air.

- c) Council Directive n. ° 2003/109/CE, of 25 de November 2003, concerning the status of long-term resident to third-country residents.
- d) Council Directive n. ° 2004/81/CE, of 29 de April 2004, on the residence permit issued to third country-nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;
- e) Council Directive n. ° 2004/82/CE, of 29 de April 2004 on the obligation of carriers to communicate passenger data;
- f) Council Directive n. ° 2004/114/CE, of 13 de December 2004, on the conditions of admission of third-country nationals for the purposes of studies, pupil Exchange , unremunerated training or voluntary service;
- g) Council Directive n. ° 2005/71/CE, of 12 October 2005, on a specific procedure for admitting third-country nationals for the purposes of scientific research.

2- Simultaneously it is consolidated in the national legal framework the transposition of the following EU acts:

- a) Council Framework Decision of 28 November 2002, on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.
- b) Council Directive n° 2001/40/CE of 28 May 2001 regarding the reciprocal recognition of decisions on the expulsion of third-country nationals;
- c) Council Directive n° 2001/51/CE of 28 June 2001, supplementing the provisions of article 26 of the Convention Implementing the Schengen Agreement of 14 June 1985;
- d) Council Directive n° 2002/90/CE of 28 November concerning the aid to illegal entry, transit and residence.

Article 3.º

Definitions

In terms of the present Act the following definitions are established:

- a) «Highly Qualified Activity», is the one whose performance requires technical and specialised competences or competences of exceptional nature and thereby require adequate qualifications, namely university qualifications.
- b) «Independent Professional Activity», any activity carried out personally, within the scope of a contract for the supply of services of the independent professional sector (liberal professions), or by means of a company.
- c) «Professional Activity of temporary nature », that with seasonal or non-lasting character, which may not surpass the duration of six months, except if it is performed within the ambit of an investment contract.
- d) «Investigation Centre », any kind of institution, either public or private, as well as any research and development unit, either public or private, which performs research work in an officially recognized way.
- e) « Implementing Convention », the Convention Implementing the Schengen Agreement of 14 June 1985, signed in Schengen in 19 June 1990;
- f) «Teaching Establishment», a public or private establishment, officially sanctioned and whose syllabus have been endorsed;
- g) «Third State », any State that is neither a member of the European Union, nor a Party to the Implementing Convention, or on which this Convention is not being enforced.
- h) «Unremunerated Trainee», a third-country national who has been admitted in national territory to perform an unremunerated period of traineeship, within the scope of the attainable legislation.

- i) «University Student », a third-country national who has been admitted into a high level teaching establishment (universities and equivalent) to read a full time studies syllabus, as a main activity, with view at obtaining a recognized academic degree or diploma, including the possibility of attending a preparatory seminar for the main course as well as any research work for obtaining the academic degree;
- j) «Secondary Level Student », a third-country national who has been admitted in national territory to attend secondary level studies, within the scope of any endorsed Exchange program or by individual admission;
- l) «External Borders », The borders with third-countries, airports concerning flights originating or with destination in territories of States not bound by the Implementing Convention, as well as sea ports, except in what concerns the traffic between Portuguese shores, and the regular connections of transshipment between States that are Parties to the Implementing Convention;
- m) «Internal Borders», the common land borders with States that are Party to the Implementing Convention, the airports concerning flights directly and exclusively originating from or heading to States which are Party to the Implementing Convention, as well as sea ports regarding regular connections of ships that perform transshipment operations, exclusively originating from or heading to States which are Parties to the Implementing Convention, without intermediate landing in ports of call located out of these territories;
- n) «Researcher», a third-country national holding an adequate academic qualification, who is admitted at a research centre to execute a research Project which in principle requires the mentioned qualification;

- o) «Voluntary Service Program», a program of specific solidarity activities, based on a State programme or on a programme of the European Union, which carries out targets of general interest;
- p) «Legal Resident », a foreign citizen holding a Portuguese title of residence, with validity date equal or superior to one year;
- q) «Society », Societies of civil or commercial legal status, including cooperatives and other corporations of civil or commercial legal status, with the exception of those that do not prosecute profitable purposes;
- r) «Title of Residence », the document issued in accordance to the rules and the adopted common form in the European Union, to a third-country national holding residence permit;
- s) «Airport Transit », transit for the purposes of removal by air, of a third-country national and, if necessary his / her escorting, through the airport premises.
- t) «Carrier», any entity individual or collective that supplies air, sea or land transportation services, with professional character.
- u) «Port or Airport International Zone », the zone between the embarking and disembarking spots and the place where the documental control of persons is made.

Article 4.º

Scope

- 1- The stipulations of the present Act are applicable to foreign and stateless citizens.
- 2- Without prejudice to its ancillary application and specific reference in contrary, the present Act is not applicable to:
 - a) Nationals of an EU Member State, of a State that is Party to the European Economic Space or of a third-country with which the European Union has reached agreement on free movement of persons;

- b) Third-country national who reside in national territory under the status of refugees, beneficiaries of subsidiary protection under the ruling stipulations of asylum, or beneficiaries of temporary protection;
- c) Third-country nationals who are family members to Portuguese citizen or to foreign citizen covered by the preceding subparagraphs.

Article 5.º

Special Regulations

- 1- The stipulations of the present law do not hinder the special regulations embodied in:
 - a) Bilateral or multilateral agreements between the European Community, or between the European Union and its Member States, on the one hand, and with one or more third States, on the other;
 - b) International Conventions of which Portugal is a Party to, or to which Portugal is bound, especially those signed or to become signed with Countries of Official Portuguese Language.
- 2- The stipulations of the present Act are not an impediment to the obligations arising from the Refugee Status, adopted in Geneva on the 28th July 1951, and amended by Protocol added to the Convention on the Refugee Status, adopted in New York, on the 31st January 1967, from international conventions on human rights and from international conventions on matters of persons extradition that Portugal has subscribed or is ruled by.

CHAPTER II

Entry and exit of national territory

Part I

Border Crossing

Article 6

Border Control

- 1- The entry into and exit from Portuguese territory are done through the recognised border posts during working hours, without jeopardy to the provisions of the Schengen Implementing Convention.
- 2- All persons who enter national territory or exit from it will be subject to border control, whenever they come from or head to States that are not Parties to the Schengen Implementing Convention.
- 3- The provisions of the preceding paragraph applies equally to those individuals who travel in a flight that does internal stopovers but that originates or heads to States that are not Parties to the Schengen Implementing Convention.
- 4- Border control can be done on board of vessels, while travelling, following request of the ship's captain or of the shipping agent and the payment of a fee.
- 5- After the control of exit of a ship or vessel, the Immigration and Borders Service, from now on designated SEF, issues a leave clearance, without which the ship may not leave the harbour.
- 6- On grounds of public policy and national security, after consulting the other States which are Parties to the Schengen Agreement, documental control of internal borders may, on exceptional circumstances and for a limited period, be reinstated.

Article 7°

Port's International Zone

- 1- The international zone of ports corresponds to fenced quays under the jurisdiction of ports' administration and to embarking and disembarking points in the areas of free quays.
- 2- SEF's bureaus are also located in the international zone of ports. .

Article 8°.

Access to international zones of ports and airports.

- 1- The access to international zones of ports and airports, for stopover or transferring in international connections, by foreign citizens requiring a visa in the terms of the present act, is conditioned to the validity of that visa.
- 2- The international zone of a port is of restricted access and conditioned to permit granted by SEF.
- 3- Access permits for the international zone of a port may be granted for certain purposes, including visits or supplying services on board.
- 4- A fee is charged for permits of access to the international zone of a port and for the entry in ships.
- 5- In the sea border posts licences can be granted so that crew and passengers of ships may land for the period during which the ship remains in shore.
- 6- The licence allows the beneficiary to circulate in the area adjoining the port and is granted by SEF following the delivery of an application and a responsibility term by the shipping agents.

Section II
General conditions of entry

Article 9º

Travelling documents and documents that may replace them

- 1- To enter into or depart from Portuguese territory foreign citizens have to hold an accepted and valid travelling document.
- 2- The travelling document must bear a validity date which supersedes the duration of the stay, except if the holder is a foreign resident.
- 3- The foreign citizens specified below may equally enter or leave Portugal:
 - a) Nationals of States with which Portugal has international conventions and therefore may enter the country with an identity card or equivalent document.;
 - b) Those that are covered by relevant conventions between the States which are Parties to NATO;
 - c) Those that hold a *laissez-passer* issued by authorities of their home countries or of the countries that represent them;
 - d) Those who hold a flight licence or a crew membership certificate as per annexes numbers 1 and 9 of the Convention on International Civil Aviation, or other documents that replace them when on service;
 - e) Those that hold an identification document of maritime worker as per Convention number 108 of the Labour International Organization when on service;
 - f) Those who are nationals of States with which Portugal has international conventions under which entry is permitted with a maritime identity card, when on duty.
- 4- The *laissez-passer* referred to in sub-heading c) of the preceding paragraph is valid solely for transit, and, when issued in Portuguese territory, only allows the exit from this Country.

- 5- The entry into and exit from Portugal is equally allowed with a passport the date of which has expired, only for nationals of States with which Portugal has international Conventions to that purpose.
- 6- Foreign citizens may also leave Portuguese territory if in possession of a safe-conduct or holding a travelling document for the purpose of expulsion of a third – country national.

Article 10

Entry Visa

- 1- For entering national territory, foreign citizens must hold a valid visa which is adequate to the purpose of the visit, granted in the terms of the present Act, or by the competent authorities of the States that are Parties to the Schengen Implementing Convention.
- 2- The visa enables its holder to come to a border post and apply for entering into the Country.
- 3- May, nonetheless, enter the Country without holding a visa:
 - a) Foreign citizens holding a valid residence permit, prorogation of permanence or identity card as specified in paragraph 2 of article 87.
 - b) Citizens that are entitled to do so within the terms of International Conventions subscribed by Portugal.
- 4- A visa may be annulled by the issuing department abroad, or by SEF in national territory, or at the border posts, when its holder has been reported for purposes of non-admission in the Schengen Information System, in SEF's Integrated Information System or has given false information for the purpose of visa granting.
- 6- The decision of annulment is communicated by electronic means to the High Commissionaire for Immigration and Intercultural Dialogue, as of now designated ACIDI, and to the Consulting Council on Immigration Matters, as of now designated Consulting Council, together with a statement on the grounds of the

decision.

Article 11

Subsistence Means

- 1- The entry of foreign citizens in the Country is not allowed if they do not have sufficient subsistence means, both for the period of the stay and for the return trip to the Country in which his/ her admission is guaranteed, or if they are not in conditions to legally obtain those means.
- 2- To the purpose of entering and remaining in the Country, foreigners must possess *per capita* funds, in accordance to the values fixed by joint administrative rule of the Internal Affairs and Work and Social Solidarity Ministers, which may be dispensed with provided they prove aliments and lodging are secured during their stay.
- 3- The amounts fixed in accordance to the preceding paragraph will be automatically updated in line, in percentage terms, with the increase of the highest minimum national income.

Article 12

Responsibility affidavit

- 1- To fulfil the conditions established in the preceding article, the third-country national may deliver a responsibility affidavit signed by a national citizen or by a foreign citizen entitled to legally reside in Portuguese territory.
- 2- The responsibility affidavit mentioned in the preceding paragraph has, compulsorily, to include the pledge to secure:

- a) The necessary conditions for permanence in national territory;
 - b) The settlement of removal costs, in case of illegal permanence.
- 3- The stated in the preceding number does not exclude the responsibilities of the entities referred to in article 198, provided the respective pre-assumptions are guaranteed.
- 4- The responsibility affidavit is a binding document for the obligations stated in sub-heading b) of paragraph 2.

Article 13

Purposes and conditions of permanence

Whenever deemed necessary to prove the objectives and conditions of the stay the border authorities may demand adequate proof from the foreign citizen.

Section III

Declaration of entry and lodging registry

Article 14

Declaration of entry

- 1- The foreign citizens that enter the Country by an uncontrolled border, coming from another Member State, are bound to declare that fact within three week days of the entry date.
- 2- The declaration of entry must be delivered to SEF, within the terms that become established by administrative rule of the Minister of Internal Affairs.
- 3 - The determinations of the preceding paragraphs are not applicable to foreign citizens who:
- a) Are resident or authorized to remain in the country for a period in excess of six months;
 - b) Immediately after entering the Country, stay in Hotels or in other kind of lodgings to which the determinations of paragraph 1, article 16 are applicable;

- c) Are covered by the EU legal framework or equivalent.

Article 15

Lodging Registry

- 1- The lodging registry aims at allowing the control of foreign citizens within national territory.
- 2- In respect to each foreign citizen, including those who are nationals of other Member States, one lodging registry, the model of which is approved by administrative rule of the Minister of Internal Affairs, is filled in and signed by the respective foreign citizen.
- 3- It is not compulsory for both spouses and underage children to fill in and sign a form, as it is not compulsory for all members of a group travelling together, in which cases this obligation may be fulfilled by one of the spouses or by one of the members of the mentioned travelling group.
- 4- With the objective of simplifying the process of forwarding the lodgers' forms, hotels and other lodging facilities must be registered at SEF's Lodging Forms Information System, so that they may be delivered by electronic means with due security.
- 5- The paper forms and respective duplicates, as well as replacing electronic forms mentioned in the preceding paragraph, will be filed in and stored for one year as of the day after the reported departure.

Article 16

Communication of lodging

- 1- The companies that manage hotels or other complementary lodging establishments for tourism, as well as all those that supply paid for accommodation to foreign citizens, have the duty to inform SEF within three days, by means of a lodging form, or alternatively, in those regions where no SEF bureaux exists, to send that same communication to the National Guard (Guarda Nacional Republicana), or to the

Police Force (Polícia de Segurança Pública).

- 2- After the departure of the foreign citizen from the mentioned lodging establishment that fact must be communicated within the same given period (three days) to the authorities mentioned in the preceding paragraph.
- 3- The lodging forms, once filled in according to paragraph 4 of the preceding paragraph, are conveyed in a safe manner, in accordance to terms and conditions that will be defined by administrative rule of the Minister of Internal Affairs.

Section IV

Travelling Documents

Subsection I

Travelling documents issued by the Portuguese Authorities in favour of foreign citizens.

Article 17

Travelling documents

- 1- The Portuguese authorities may issue the following documents in favour of foreign citizens:
 - a) Passport for foreigners;
 - b) Travelling title for refugees;
 - c) Safe-conduct;
 - d) Travelling document for expulsion of third –country nationals;
 - e) Travelling carnet for a group of students.
- 2- The travelling documents issued by Portuguese authorities in favour of foreign citizens are no proof of the holder's nationality.

Article 18
Passport for foreigners

The procedures for granting passports to foreigners follow the determinations of specific legislation.

Article 19
Travelling title for refugees.

- 1- Foreign citizens who reside in Portugal as refugees, in accordance to the determinations of the law of asylum, as well as the refugees covered by the depositions of § 11º in the annex to the Convention relating to the **Status** of Refugees, adopted in Geneva on the 28th of July 1951, may obtain a travelling title, the model of which will be approved by administrative rule of the Minister of Internal Affairs.
- 2- The travelling title for refugees is valid for a one year period, may be prorogued, and can be used for an unlimited number of trips, allowing the return of its holder within the defined validity date.
- 3- The travelling title for refugees may include a person individually or one holder and children or adopted children provided these are less than ten years old.
- 4- No additional information should be inserted in any travelling title after the issuing, except in what concerns that of validity prorogation, as per number 2.

Article 20
Competency for granting a refugee's travelling title.

The following authorities hold the competency for granting travelling titles for refugees as well as respective prorogations:

- a) In national territory, the Director General of SEF, personally or by legal substitution;

- b) In foreign territory, the consular or diplomatic authorities, following favourable evaluation of SEF.

Article 21

Issuing and controlling of refugees travelling title.

- 1- The actual issuing of a refugee's travelling title is done by the granting authorities.
- 2- SEF is responsible for controlling and keeping a national registry of travelling titles that have been issued.

Article 22

Validity conditions of the travelling title for refugees

- 1- The travelling title for refugees is only valid provided distinctly legible and fully filled in with all indispensable data, and with blank inapplicable spaces crossed out.
- 2- No corrections or amendments of any kind will be allowed.
- 3- The photographs must be recent, in colour with white background, and easily identifiable.
- 4- The holder's photograph and the signature of the issuing entity will be authenticated by means of the official seal of the respective department.
- 5- The travelling title has to be signed by the respective holder, except if in the respective place, has been declared by the issuing department that the holder cannot or is unable to do so.

Article 23

Application for a refugee's travelling title

- 1- The application for a travelling title has to be done and delivered by the interested party.
- 2- The application for a travelling title for an underage person is delivered by:
 - a) Either parent, if within wedlock;
 - b) By the parent who holds parental power over the minor, according to court decision;
 - c) By a third person whom, in the absence of parents, has legally recognised

parental power over the minor.

- 3- For individuals who are considered restrained or incapacitated, the application is delivered by whoever holds the guardianship or the trusteeship.
- 4- The Director General of SEF may, in certain justified cases, accomplish by internal order the actions determined in paragraphs 2 and 3.

Article 24

Restraints to the use of a travelling title for refugee

The refugee who, by means of a travelling title issued in the terms of the present Act, has been in a Country in relation to which he / she becomes covered by any of the conditions of §§ 1 to 4 of Section C, article 1 of the Geneva Convention relating to the Status of Refugees, of 28th July 1951, must carry a travelling title from that same Country.

Article 25

Unlawful use of refugee travelling title

- 1- Any travelling titles which are not in strict conformity with the Law will be seized by the authorities to whom they are presented and subsequently forwarded to SEF.
- 2- Any travelling titles that contain distorted information on the identity data may not be accepted.

Article 26

Safe-conduct

- 1- Foreign citizens that do not reside in this Country and prove the impossibility or difficulty in leaving Portuguese territory may be entitled to a safe-conduct.
- 2- In exceptional cases, deriving from reasons related to the national interest or to the fulfilling of national obligations, a safe-conduct in the name of foreign individuals whom do not reside in Portugal, may be issued, and provided they prove that obtaining another travelling document is impossible.

- 3- The issuing of a safe-conduct to the exclusive purpose of allowing departure from the Country is of the competence of SEF's Director General, personally or by legal substitution.
- 4- The issuing of a safe-conduct with the exclusive purpose of allowing the entry into the Country is of the competence of the Portuguese embassies and permanent consular posts, following a favorable opinion of SEF.
- 5- The format of a safe-conduct is approved by administrative rule of the Minister of Internal Affairs.

Article 27

Travelling Document for expulsion of third –country nationals

- 1- For any third-country national who has been subject to an expulsion measure and does not possess a travelling title, a document to that effect will be issued.
- 2- The document referred to in the preceding paragraph is valid for one single trip.
- 3- The format of that same document is approved by administrative rule of the Minister of Internal Affairs.

Sub-section II

Travelling documents issued by foreign authorities

Article 28

Inspection of travelling documents

Nonresident foreign citizens holding travelling documents issued in Portuguese territory by foreign diplomatic missions or consular posts must present those documents to SEF, within three days of the issuing date, in order to validate them.

Section V

Entry and departure of third-country national students

Article 29

Entry and permanence of students who are resident in the European Union

- 1- The students who are third-country nationals and reside in territory of other European Union members may enter and temporarily remain in national territory without the need of a visa, provided they are party to a school trip, duly organised by a teaching establishment officially recognised.
- 2- To accomplish the determination of the preceding paragraph, students must:
 - a) Be accompanied by a teacher of the teaching establishment;
 - b) Be included in the list of students who participate in the school trip, issued by the respective school, which must bear the identification of the students as well as the purpose and circumstances of the trip.
 - c) Hold a valid travelling document.
- 3- The requisite specified in sub-heading c) of the preceding paragraph is not applicable whenever the students are registered in a carnet, duly authenticated by an official and qualified department of the Member State where the trip started, which bears the following items:
 - a) Recent photographs of the students;
 - b) Confirmation of their student's status;
 - c) Re-entry permit.

Article 30

Departure of Students that reside in the Country.

The students who are third-country nationals and reside in national territory may equally travel to other European Union States, provided they fulfil the conditions specified in the preceding paragraph, in which case is SEF's competence to certify the genuineness of the mentioned carnet.

Section VI

Article 31

Entry and exit of minors

- 1- Without prejudice to plans of tourism or juvenile exchange programs, the competent authority must refuse the entry into the Country to foreign citizens who are less than 18 years old when not accompanied by whoever holds parental power over them, or when there is no one in Portugal who has been duly authorized by the legal representative of the minor, to take responsibility for the duration of his / her stay.
- 2- Excluding duly justified and exceptional cases, underage foreigners are not admitted in Portugal if whoever holds parental power or is in charge of him / her is not authorized to enter the Country.
- 3- If the foreign minor is not accepted into national territory, the entry of the accompanying adult must also be refused.
- 4- The departure from Portuguese territory will be refused to those underage resident foreigners when travelling unaccompanied by whoever holds parental power, or by someone that does not hold a legally certified authorization granted by the person who holds parental power.
- 5- The unaccompanied minors who await decision on admission into national territory or on repatriation must be granted all material support and necessary assistance to fulfill their basic needs of food, hygiene, accommodation and medical assistance.
- 6- The unaccompanied minors may only be repatriated to their Country of origin or to a third country which is willing to receive them provided there is a guarantee that upon arrival they will be given adequate fostering and assistance.

Section VII
Refusal of entry

Article 32
Refusal of entry

- 1- The admission into Portuguese territory is refused to those foreign citizens:
 - a) That do not possess all legal prerequisites of entry; or
 - b) In respect of whom an alert has been issued for the purposes of refusing entry in the Schengen Information System; or
 - c) Who have been reported to purposes of non admission in SEF's Integrated Information System; or
 - d) Represent a danger or serious threat to public order, national security, and national health or to the international relations of European Union Member States, as well as to those of States that have adopted the Schengen Convention.
- 2- The refusal of entry on grounds of public health may only be based on diseases that have been defined in the applicable instruments of the World Health Organization, or on other infectious or parasitic contagious diseases which have been object to protection measures in national territory.
- 3- A medical exam may be imposed on a third-country national in order to establish that he / she does not have any of the above mentioned diseases, and to determine any adequate medical measures.

Article 33

Alerts to purposes of refusing the entry

- 1- Alerts for the purposes of refusing entry are inserted in SEF's Integrated Information System, regarding foreign citizens:
 - a) Who have been subject to an expulsion measure;
 - b) Who have been removed into another Country under an agreement of readmission;
 - c) In relation to whom there are strong evidences of having committed serious criminal acts;
 - d) In relation to whom there are strong evidences that they intend to commit serious criminal acts or that represent a serious threat to the public order, national security or to the international relations of a European Union Member State, as well as to those of States that have adopted the Schengen Convention.
 - e) Who have been taken to the border in the terms of article 147°.
- 2- Alerts are also inserted in SEF's integrated Information System to purposes of non admission, concerning those that benefited from support to voluntary return, according to the terms of article 139°, and those alerts are withdrawn in the situation established in paragraph 3 of that article.
- 3- Alerts may also be inserted for purposes of refusing the entry of those citizens that have been convicted by court decision which has transited in *rem judicatam* in imprisonment with a duration period superior to one year, even if such penalty has not been enforced, or who have been subject to identical punishment, even in those cases where a suspension of punishment was granted.
- 4- The restraint entry measures, which do not depend upon defined time limits established in the contents of the present Act, will be reconsidered periodically, in order to either maintain them or withdrawing them.

- 5- The restraint entry measures that have not been determined by judicial decision and which are not subject to periodicity established by the contents of the present Act, may, at any time be reviewed, by initiative of SEF's Director General, for humanitarian reasons as well as for reasons of national interest, with the purpose of withdrawing them.
- 6- Any alerts in the Schengen Information System concerning foreign citizens, depend upon decision taken by the competent authorities of a State which is Party to the Schengen Convention.
- 7- SEF's Director General has the competence to introduce alerts concerning foreign citizens in the Schengen Information System, or in SEF's Integrated Information System for purposes of refusing the entry and permanence.

Article 34

Apprehension of Travelling Documents

When the refusal of entry is grounded on the presentation of a travelling document which is false, forged, someone else's, or fraudulently obtained, it will be apprehended and forwarded to the national or foreign competent authority, in conformity with the applicable stipulations.

Article 35

Checking the document's validity

SEF may, when in doubt as to the genuineness of documents issued by Portuguese Authorities, have access to information that led to the issuing of Passport, Identity Card, or any other document used for crossing the borders.

Article 36

Limitations to refusal of entry

It may not be refused the entry to foreign citizens who:

- a) Were born in Portuguese territory and here reside regularly;
- b) Have children effectively in their charge who are minor and of Portuguese nationality, in accordance to the specifications of sub-heading c) paragraph 1 of article 122°;
- c) Have underage children, who are nationals of a third State and legally reside in Portugal, over whom they effectively have parental power and to whom they provide maintenance and education.

Article 37

Competency to refuse the entry

The refusal of entry in national territory is under the competency of the Director General of SEF, personally or by legal substitution.

Article 38

Decision and notification

- 1- The decision on refusal of entry is issued after audition with the foreign citizen, which represents, for all purposes, an audition of the interested party, and is immediately communicated to the diplomatic or consular representation of his / her country of origin.
- 2- The decision of refusal of entry is communicated to the applicant, in a language that is presumed to be understandable, with the indication of the grounds that lead to it, as well as information regarding the right to judicial impugnation and the respective time limit for that action.
- 3- The respective carrier is equally notified in order to fulfill the obligations contained in article 41°.

- 4- Whenever is not possible to remove the foreign citizen within forty eight hours of the issuing of the refusal of entry decision, this fact must be communicated to the judge of the lower stage criminal court of the respective jurisdictional area, or of the district court, in the remaining part of the territory, in order to determine the prison sentence in temporary accommodation premises or equivalent.

Article 39

Judicial Impugnation

The decision of refusal of entry is susceptible to judicial impugnation with devolutive effect only, before the administrative courts.

Article 40

Rights of the citizens whose entry was refused

- 1- During the permanence in the airport's or sea port's international zone, in temporary accommodation centre or equivalent premises, the foreign citizen whose entry has been refused may communicate with the diplomatic or consular representation of his / her Country, or with any person of his / her choice , for the purpose of which he / she benefits from the assistance of interpreters, likewise he / she also benefits from health care, including medical visits, when necessary, and all material support to the satisfaction of basic needs.
- 2- To a foreign citizen whose entry in national territory has been refused, legal assistance by a barrister, paid for by the interested party, will be granted in good time.
- 3- To accomplish the disposition of the preceding paragraph, the legal assistance to a foreign citizen whose entry has been refused may be object of a protocol to be jointly signed by the Ministry of Internal Affairs, the Ministry of Justice and the law Bar Association.

CHAPTER III
Obligations of the carriers

Article 41
Carriers' responsibilities

- 1- Any carrier which transports into Portuguese territory, by air, sea or land, a foreign citizen who does not hold the necessary conditions for entering, has to provide for his / her return, at the earliest possible moment into the territory where he / she embarked in that means of transport, or, should that be impossible, into the Country where the respective travelling document was issued, or, alternatively, into any other territory where his / her admission is guaranteed.
- 2- In the interim period and before embarking takes place, the passenger is under the charge of the carrier, and is the carriers' responsibility to cover any expenses related to the period of stay of the passenger in a temporary accommodation centre or equivalent premises.
- 3- Whenever justified the foreign citizen that does not hold conditions of entry is removed from Portuguese territory, escorted by SEF.
- 4- The carrier is also responsible for the payment of costs related to the escort of the citizens as well as for the payment of the respective fee.
- 5- The stipulations of the preceding paragraphs are equally applicable in case of refusal of entry of a foreign citizen in transit, provided:
 - a) The carrier which was supposed to take him / her aboard and supply transport to the Country of final destination refuses to do so;
 - b) The authorities of the Country of destination have refused his / her entry and sent him / her to Portuguese territory.

Article 42

Data transmission

- 1- Air carriers have the obligation to convey, during the check in process and at SEF's request, all information related to passengers that they transport to a border post through which they will enter national territory.
- 2- The information referred to in the preceding paragraph include:
 - a) Number and type of travelling document used;
 - b) Nationality;
 - c) Full name;
 - d) Date of birth;
 - e) Border post of entry in national territory;
 - f) Code of transport;
 - g) Departure and arrival time of transport;
 - h) Total number of passengers carried;
 - i) Embarking point.
- 3- The transmission of data specified in the present article does not exempt carriers from their obligations and responsibilities stated in the preceding article.
- 4- The ship-owners and sea agents that represent them, as well as the captains of fishing vessels that travel in international waters, must deliver to SEF, a list of their crew members and passengers, which must not be amended or in any other way deleted or modified in what concerns the elements that have been originally registered, and must communicate the presence of any concealed passengers, forty eight hours before landing and up to two hours before taking off from a national harbor.

Article 43

Processing data

- 1- The data to which the preceding article refers are collected by the carriers and transmitted electronically or, in case of malfunction, by any other appropriate means to SEF, with the purpose of facilitating the control at the authorized border passage post through which the passenger will enter in national territory.
- 2- SEF will keep that data in a temporary file.
- 3- After the entry of passengers, the mentioned authority deletes all data within twenty four hours as of the moment of its transmission, except if it is necessary for legal actions to be carried out by the authorities which are responsible for control on external borders, within the terms of the law, and in conformity with Law n° 67/98, of 26th October on personal data protection.
- 4- Within twenty four hours of arrival, carriers delete the personal data by them collected and transmitted to SEF.
- 5- Without prejudice to the determinations of Law 67/98, of 26 October, on personal data protection, all data referred to by the preceding paragraph, may be used to the purposes of fulfilling legal stipulations in matters of security and public order.

Article 44

Information on passengers

- 1- To accomplish the stipulations of article 42°, carriers, when collecting personal data, will supply the following information to passengers involved:
 - a) Identification of the person who is processing the relevant data;
 - b) Purposes for which the data is being collected;
 - c) Other information, considering the specific circumstances in which the personal data is being collected, which is essential to guarantee the passenger a loyal processing of data, as well as the final recipient or category of recipients of data, the compulsory character of answering, as well as possible consequences of omission, the possible right of access to data that concerns

them and the right to having them duly rectified.

- 2- When data has not been collected from the person they concern, the person who is responsible for processing them, or his / her representative, supplies the person concerned, when data is being registered, or on the moment of the first conveyance of those data, at the latest, all information specified in the preceding paragraph.

CHAPTER IV

Visas

Section I

Visas granted abroad

Article 45

Types of visa granted abroad

In foreign territory the following visas may be granted:

- a) Stopover visas;
- b) Transit visas;
- c) Short stay visas;
- d) Temporary stay visas;
- e) Visas for obtaining residence permits, as of now designated residency visas.

Article 46

Territorial validity of visas

- 1- The stopover, transit and short stay visas may be valid for one or more States, which are Party to the Schengen Convention.

- 2- The temporary stay and residency visas are only valid in Portuguese territory.

Article 47

Individual and corporate visa

- 1- The individual visa is affixed either in individual or family passport.
- 2- The corporate visa is affixed in a collective passport which has been issued in favor of a group of individuals, socially or institutionally organized, before the decision of carrying out the trip and which must comprehend a minimum of five and a maximum of fifty persons.
- 3- Visas granted abroad may be individual or corporate, except in the cases specified in sub-headings d) and e) of article 45º, which may only be issued in individual form.
- 4- A corporate visa is issued under the assumption of simultaneous entry, permanence and exit of all members of the group.
- 5- A corporate visa has a maximum validity of 30 days.

Article 48

Competency for granting visas

- 1- The competency for granting visas is held by:
 - a) Portuguese embassies and permanent consular posts, for stopover, transit or short stay visas applied for by holders of diplomatic, on duty, in service and special passports, or travelling documents issued by international organizations;
 - b) Permanent consular posts and consular sections, in all remaining cases.
- 2- The authorities mentioned in the preceding paragraph must request the necessary assessment, information and complementary elements which are necessary for processing the applications.

Article 49

Stopover visas

- 1- The purpose of the stopover visa is to allow the passage of its holder through an airport or port of a State which is Party to the Schengen Convention, when doing an international connection.
- 2- The holder of a stopover visa only has access to the international zone of the airport or of the sea port, and therefore must continue travelling either in the same or another aircraft or ship, according to the ticket that is held.
- 3- A stopover visa is required by the nationals of States which have been defined by joint administrative rule of the Ministers of Internal Affairs and Foreign Affairs, and those who hold travelling documents issued their home States.
- 4- The administrative rule mentioned in the preceding paragraph determines the cases which are exceptions to the requirement of this type of visa.

Article 50

Transit visas

- 1- The purpose of a transit visa is to allow the entry in Portuguese territory to those who are travelling from a third State and head to a third-country in which his / her entry is guaranteed.
- 2- The transit visa may be issued for one, two, or exceptionally various entries, but the duration of each transit may not exceed five days.

Article 51

Short stay visas

- 1- The purpose of the short stay visa is to allow the entry in Portuguese territory to its holder, for purposes that, whilst acceptable to the relevant authorities, do not justify the granting of another type of visa, including tourism and visiting or accompanying family members who hold a temporary stay visa.
- 2- The visa may be granted with a validity period of one year, and for one or more

entries, but the duration of each uninterrupted stay, or the total of individual successive stays, may not exceed three months in each semester as of the date of the first entry through an external border.

- 3- In cases duly justified, and when a clear interest for the Country is perceived, a multiple entry visa may be granted to certain grades of persons, by joint administrative rule of the Ministers of Internal Affairs and Foreign Affairs.

Article 52

General conditions for granting residency, temporary stay and short stay visas.

- 1- Without prejudice to special conditions which are applicable to the granting of each type of visa and to the special frameworks contained in agreements, protocols or similar instruments, treaties and international conventions that Portugal is Party to, residency, temporary stay and short stay visas are only granted to nationals of third States that fulfill the conditions below:
 - a) Those that have not been subject to a removal measure or are not in the subsequent period of time following the ban of entry in national territory.
 - b) Those in respect of whom an alert has not been issued for the purposes of refusing entry or stay in the Schengen Information System by any of the Contracting Parties;
 - c) Those in respect of whom an alert has not been issued for the purposes of refusing entry or stay in SEF's Integrated Information System, according to the contents of article 33°;
 - d) Those who possess sufficient subsistence means, such as defined by joint administrative rule of the Ministers of Internal Affairs and Work and Social Solidarity;
 - e) Those that hold a valid travelling document;
 - f) Those that are covered by travelling insurance;

- 3- In order to grant residency visas for purposes of independent or dependent

professional activity, residency visas for studying or students exchange programs, professional traineeship or voluntary service, visas of temporary stay and short stay it is also demanded from the third-country national that he / she is in possession of a ticket that secures his / her return;

- 3- It will be refused to grant a visa to any third-country national who has been convicted of a crime which according to the Portuguese legal framework is punishable with prison sentence superior to one year, even if the punishment has not been enforced, or that has been subject to more than one identical conviction, even if the execution of those convictions has been suspended.
- 4- It may be refused to issue a visa to persons that represent a serious threat to the public order, safety or health.
- 5- Whenever the granting of a visa is refused on the grounds specified in sub-headings b) and c) of paragraph 1, the applicant is informed about the possibility of applying for amendment of the data concerning him / her which are not correct.

Article 53.º

Formalities preceding the granting of visas

- 1- A former appraisal of SEF for the granting of visas is required, in the following situations:
 - a) When the application concerns residency and temporary stay visas;
 - b) When such is determined by reasons of national welfare, by internal security reasons, or for preventing illegal immigration and co-related criminal activities.

- 2- In what concerns the visa applications mentioned in the preceding paragraph a dismissal is issued, whenever the applicant has been convicted in Portugal by court decision which has transited in *rem judicatam* in prison sentence with a duration period superior to one year, even if such penalty was not enforced, or has been subject to more than one identical punishment, even in those cases where a suspension of punishment was granted.
- 3- In urgent and duly justified cases, a former appraisal may be dispensed with, when applications for residency visa are for purposes of independent professional activity or temporary stay.
- 4- The granting of visa requires a preceding appraisal by the Information and Security Services, if such appraisal is determined by reasons of national security or for accomplishing agreed procedures within the scope of European common security policy.
- 5- SEF must apply for and obtain from other entities appraisals, information and other required complementary data for fulfilling the stipulations of the present Law in matters of residency and temporary stay visa granting.
- 6- The necessary assessments for granting visas, which present a negative appraisal, are compulsory to accomplish the determinations of sub-heading b) of paragraph 1 of the present article, and will be issued within 20 days, after the end of which the absence of a reply corresponds to an approval.

Subsection I

Temporary stay visa

Article 54.º

Temporary stay visa

- 1- The purpose of the temporary stay visa is to allow the entry of its holder in Portuguese territory to purposes of:
 - a) Receiving medical treatment in official or officially recognised health establishment;

- b) Transferring citizens who are nationals of States that are Party to the World Trade Organization, within the scope of providing services or receiving vocational training in Portuguese territory;
 - c) Accomplishing a professional assignment either dependent or independent, of temporary nature whose duration does not exceed, as a rule, the six month period;
 - d) Accomplishing, in national territory a scientific research assignment in research centres, a tuition assignment in a university or equivalent teaching institution, or a highly qualified commission for a period of time inferior to one year;
 - e) Accomplishing, in national territory, an amateur sports activity, which is certified by the respective federation, provided the club or sports association provides lodgings and health care;
 - f) Remaining in national territory for periods which are superior to three months, in certain exceptional and duly justified cases, including the attainment of international agreements within the ambit of the World Trade Organization, with character of self-employment.
 - g) Accompanying a family member subject to medical treatment in accordance to sub-heading a).
- 2- The temporary stay visa is valid for three months and for multiple entries in national territory without prejudice to the determinations of paragraph 4 of article 56º.
- 3- The maximum period for reaching a decision regarding a temporary stay visa is 30 days, from the date of starting proceedings on the application.

Article 55.º

Temporary stay visa within the ambit of transferring workers

The granting of temporary stay visas to citizens who are nationals of States which are Party to the World Trade Organization, and who are transferred within the context of providing services or receiving vocational training in Portuguese territory, is dependent upon the verification of the following conditions:

- a) The transfer has to be done between branches of the same company, or of the same company group, and the branch located in Portuguese territory must supply services that are equivalent to those supplied by the branch where the foreign worker comes from;
- b) The transfer only covers partners or dependent workers that have been, for a minimum period of one year, in a branch located in another State which is Party to the WTO, and who are included in one of the following categories:
 - i) Those who detain decision making competences, work as high level workers and act as managers of an establishment or department, following general guidance from the administration board;
 - ii) Those that hold specific technical knowledge of vital importance to the activity, research equipment, techniques or management of the same;
 - iii) Those who must receive vocational training in establishment that is located in national territory.

Article 56.º

Temporary stay visa for the purpose of providing dependent professional services of temporary nature

- 1- A temporary stay visa may be granted to third-country nationals who intend to provide a dependent professional activity of temporary nature in national territory, provided they have a consignment or labour contract.
- 2- The Employment and Vocational training Institute keeps an information system, to which the public may have access, and on which all offers of temporary dependent jobs are registered, and which have not been taken by European Union Member States nationals, by European Economic Space nationals or by third-country nationals who reside legally in Portugal, and publishes those vacancies, by its own initiative or at the request of the employing entities or of the associations that are members of the Consultation Council, on the Portuguese Embassies and permanent consular posts.
- 3- To accomplish the stipulations of the preceding paragraphs, the autonomous regions of the Azores and Madeira Islands keep systems on job offers of the respective Islands.
- 4- The temporary stay visa for providing dependent professional activity of temporary nature is granted for the period of the duration covered by the work contract.
- 5- Exceptionally, a temporary stay visa for dependent professional activity of temporary nature for a period exceeding six months may be granted, whenever that activity is included in the ambit of an investment contract and up to the time limit of its respective execution.

Article 57.º

Temporary stay visa for research or highly qualified assignment

The temporary stay visa may be granted to third-country nationals who intend to engage on a research assignment, a teaching job in a university or equivalent high level teaching institution or a highly qualified activity for a period of less than one year provided:

- a) They are admitted in the quality of assistant by a research centre which is duly recognized by the Ministry of Science, Technology and Higher Studies, specifically by means of a consignment or work contract, a proposal or contract on services supply, or a research grant for scientific purposes; or
- b) Detain a consignment or a work contract, or a written committal, or a contract for the supply of services for the purpose of teaching in a high level teaching establishment, or a highly qualified activity in national territory.

Subsection II

Residency visa

Article 58.º

Residency visa

- 1- The purpose of the residency visa is to allow its holder to enter Portuguese territory in order to apply for a residence permit.
- 2- The residency visa is valid for two entries in Portuguese territory and enables its holder to remain there for a period of four months.
- 3- Without prejudice to the applying of specific conditions, when assessing the residency visa application, the final purposes for taking up residency in Portugal will be specifically taken into consideration.

- 4- Without prejudice to shorter time limits established in this Act, the period to issue a decision on the application for a residency visa is 60 days.

Article 59.º

Residency visa for supplying a dependent professional activity

- 1- The granting of visa to obtain residence permit for purposes of subordinated professional activity is dependent on the existence of job opportunities, not taken by Portuguese nationals, by workers who are European Union Member States' nationals, by workers who are European Economic Space nationals, by workers who are citizens of third States with which the European Union has signed a free movement of persons agreement, as well as by workers who are third-country nationals and legally reside in Portugal.
- 2- To accomplish the stipulations of the preceding paragraph, the Council of Ministers, against a preliminary assessment of the Permanent Commission for Social Concertation approves, on an annual basis, a global quota which indicates the availability of job offers, which are presumed not to have been taken by the workers itemised in the preceding paragraph, and may exclude specific sectors or activities that do not require further workers, provided the market circumstances so indicate.
- 3- In the global quota mentioned in the preceding paragraph there will be specific quotas for each of the autonomous regions, in accordance to the respective needs and regional particularities.
- 4- The Institute for Employment and Professional Training, as well as the respective branches in each autonomous region keep an information system permanently updated and accessible to the public in the Internet, containing all job offers covered by paragraph 1 and publicise them, by its own initiative or by request of the employers or of the associations that belong to the Consultation Council, on the premises of the Portuguese Embassies and permanent consular posts..

- 5- Up to the limit of the quotas established in accordance to paragraph 2 and for job positions not taken by the workers specified in paragraph 1, it may be issued a residency visa for taking a subordinated professional activity to third-country nationals that fulfil the requisites established in article 52, and who:
 - a) Detain a work contract or consignment of work contract; or
 - b) Detain qualifications, competencies or expertise that has been acknowledged for accomplishing one of the activities described in the preceding paragraph and regarding whom the employer has shown a specific demonstration of individual interest.
- 6- To accomplish the stipulations of sub-heading b) of the preceding paragraph all applications of third-country nationals are forwarded through the Institute for Employment and Vocational training or, in the case of the autonomous regions, through their respective departments, to the employers that keep job offers covered by the contents of paragraph 4.
- 7- In exceptional cases, and independently from the quota established in paragraph 2, a visa may be granted to the purpose of applying for residence permit for taking a subordinated professional activity to third-country nationals who fulfil the conditions defined in article 52º and hold a work contract, provided they make proof that the job position was not taken by workers mentioned in paragraph 1.
- 8- The Institute for Employment and Vocational Training produces a report every semester on the executing of the global quota.
- 9- To accomplish the contents of the preceding paragraph, visa granting under the present disposition will be communicated within five days to the Institute for Employment and Professional Training.

Article 60.º

Residency visa for taking up a subordinated professional activity or for immigrant entrepreneurs

- 1- The visa for the purpose of obtaining a residence permit for taking up an independent professional activity may be granted to a third-country national who:
 - a) Detains a contract or written proposal for a contract for the supply of services with character of self-employment; and
 - b) Has the qualifications to engage on that independent activity, if applicable.
- 2- A residency visa is granted to immigrant entrepreneurs who intend to invest in Portugal, provided:
 - a) They have made investments; or
 - b) They prove to possess available financial means in Portugal; including those deriving from loans obtained from a banking institution in Portugal, and they demonstrate by any means their intention to carry out an investment action in Portuguese territory.

Article 61.º

Residency visa for purposes of research or highly qualified assignment

- 1- A residency visa for purposes of research will be granted to third-country nationals whom have been accepted as assistants of research institution, acknowledged by the Ministry of Science, Technology and High Level Studies, specifically through a consignment or work contract, or through a contract for services supply, or through a scientific research grant.
- 2- A residency visa will equally be granted for purposes of carrying out a teaching assignment in a high level studies institution or for a highly qualified activity to third-country nationals who possess an adequate consignment, or work contract, written proposal or a contract for services supply.
- 3- The time limit for deciding upon the visa application referred to in the preceding paragraph is 30 days.

Article 62.º

Residency visa for studies, students exchange programs, traineeship at work or voluntary work

- 1- The admission of a third-country national in Portuguese territory for purposes of studying, participating in a secondary level students exchange program, unremunerated traineeship, or voluntary work depends upon the granting of a residency visa to that effect.
- 2- A visa is granted for the purpose of obtaining residence permit to the purposes specified in the preceding paragraph provided the third-country national:
 - a) Holds a travelling document, the validity of which supersedes the length of the foreseeable stay;
 - b) Is a minor, according to the Portuguese legal framework, provided he / she obtains an authorization from whoever holds parental power to remain in the Country for the foreseeable period of stay.
- 3- The procedures for granting a visa for purposes of obtaining residence permit by third-country nationals mentioned in paragraph 1, who participate in European Union programs for promoting mobility into the European Union, or into Portuguese Speaking Countries, or to the interest of such Countries, will be facilitated according to rules to be defined by joint administrative rule of the Ministers of Internal Affairs and of Foreign Affairs.
- 4- Beyond the general conditions specified in paragraph 2, the third-country national who requires a visa for obtaining a residence permit for the purpose of accomplishing high study programs (university level or equivalent), must fulfil the conditions of admission of such teaching institution for that purpose.
- 5- Beyond the general conditions specified in paragraph 2, the third-country national who requires a visa for obtaining a residence permit for the purpose of accomplishing secondary level studies, must:
 - a) Be of the minimum age and not exceeding the maximum age for that purpose

as established in joint administrative rule of the Ministers of Internal Affairs and of Education;

- b) Having been accepted in a secondary level teaching institution, which may have been done within the ambit of a pupils exchange program of secondary level, carried out by an institution duly acknowledge by the Ministry of Education to that purpose;
 - c) To board, for the period of the stay, with a family that fulfills the conditions established in the respective pupils exchange program for secondary level students, or having secured lodgings.
- 6- Beyond the general conditions specified in paragraph 2, the third-country national who requires a visa for obtaining a residence permit for the purpose of carrying out unremunerated traineeship, must be accepted as trainee by a company or an officially acknowledged vocational training institution.
- 7- Beyond the general conditions specified in paragraph 2, the third-country national who requires a visa for obtaining a residence permit for the purpose of participating in a program of voluntary work, must:
- a) Be of the minimum age to that effect as determined by administrative rule of the Minister of Internal Affairs;
 - b) Having been accepted by an organization which, in Portugal, is in charge of the respective voluntary program, and which is officially acknowledged.
- 8- The minimum amount as subsistence means which will be considered to the purposes of granting a visa in the terms of the present article, and which is referred to in sub-heading c) of paragraph 1 of article 52°, may be dispensed with given the circumstances of each particular case.

Article 63.º

Residency visa within the ambit of high level students' mobility

- 1- The third-country national who resides, as a high level student, in a Member State of the European Union and candidates for a program of studies in Portugal started at an

earlier date or which he / she wants to complement with a co-related program of studies, will be granted a residence visa which does not hinder the continuation of the mentioned studies, and which will not exceed 60 days, provided:

- a) The student fulfils the conditions established in paragraphs 2 and 4 of the preceding article; and
 - b) The student participates in a European Union or bilateral exchange program, or has been accepted as student in a Member State for a period not inferior to two years.
- 2- Whenever Portugal is the first Member State of admission, SEF must, upon request of the second Member State, supply all relevant information concerning the stay of the student in national territory.

Article 64.º

Residency visa for family reunion

Whenever an application for family reunion with members of the family that are abroad is granted, as per the terms of the present Law, a residency visa that allows the entry into national territory is immediately issued in the name of the respective family member or members.

Article 65.º

Communication and notification

- 1- To the purposes specified in the preceding article, SEF informs the Directorate General of Consular Affairs and Portuguese Communities of the favourable decision regarding family reunion applications, and likewise informs the applicants.
- 2- The residency visa is issued following the communication mentioned in the preceding paragraph and according to the terms of the same, which implies that SEF's assessment on the application is compulsory, as per the contents of article 53º.

Section II

Visas granted at the border posts

Article 66.º

Types of visa

At the border posts the following types of visa may be granted:

- a) Transit visas;
- b) Short stays visas;
- c) Special visa.

Article 67.º

Transit and short stay visa

- 1- At the controlled border posts may be granted, on exceptional grounds, transit or short stay visas to a foreign citizen whom, by unexpected reasons, was unable to apply for a visa to the competent authorities, provided the applicant:
 - a) Holds a valid travelling document that allows the border crossing;
 - b) Fulfills the conditions established in article 11º;
 - c) Is not object to an alert in the Schengen Information System for purposes of refusing the entry;
 - d) Does not represent a threat to the public order, to the public security or to the international relations of a European Union Member State;
 - e) Has a guaranteed trip to the Country of origin or to the Country of destination, as well as the respective admission of entry.
- 2- The transit and short stay visas which are issued in accordance to the contents of the preceding paragraph may only be granted for one single entry and their validity must not exceed five or 15 days, respectively.

- 3- The visas covered by the present article may be valid for one or more States which have subscribed the Schengen Convention.

Article 68.º

Special visa

- 1- For humanitarian or national interest reasons determined by the Minister of Internal Affairs, a special visa for temporarily entering and remaining in the Country may be granted to foreign citizens that do not fulfill the legal requisites for doing so.
- 2- The visa mentioned in the preceding paragraph is valid only to the Portuguese territory.
- 3- The power to accomplish the procedure mentioned in paragraph 1 may be conceded to the person of the Director General of SEF, or to another person acting on his behalf.
- 4- If the person who is admitted in Portugal under the conditions of the preceding paragraphs is object of an alert in the Schengen Information System, that admission will be communicated to the other States which are Party to the Schengen Convention.
- 5- When the foreign citizen holds a diplomatic passport, or an official or special service passport, or a travelling document issued by an international organization, the Ministry of Foreign Affairs, whenever possible, will be consulted.

Article 69.º

Competence for granting passports at border posts

The Director General of SEF, personally or by legal substitution, is entitled to grant the visas referred to in this section.

Section III
Cancellation of visas

Article 70.º
Cancellation of visas

- 1- Visas may be cancelled in the following situations:
 - a) When the holder does not fulfil the conditions that grounded its granting;
 - b) When they have been granted on grounds of false declarations, by fraudulent means or by calling upon motives different to those that were at the base of the entry of its holder in the Country;
 - c) When the respective holder has been object of a removal measure from national territory.
- 2- The residency and temporary stay visas may equally be cancelled when the respective holder, without valid reasons, is absent from the Country for a period of 60 days, during the validity period of the visa.
- 3- The stipulations of the preceding paragraphs are equally applicable during the validity periods of permanence prorogations granted in the terms of the present Act.
- 4- The residency visa is also cancelled if residence permit is refused.
- 5- After the holder of the visa enters Portuguese territory, the cancellation of visas to which the preceding paragraphs refer, is of the competence of the Minister of Internal Affairs, personally or by legal substitution.
- 6- Visa cancellations in accordance to the preceding paragraph will be communicated by electronic means to the Directorate General of Consular and Portuguese Community Affairs.
- 7- The cancellation of visas prior to its holder arriving in Portugal is of the competence of diplomatic missions and permanent consular posts, and communicated by electronic means to SEF.

CHAPTER V

Prorogation of permanence

Article 71.º

Prorogation of permanence

- 1- Foreign citizens who have been admitted in national territory in the terms of the present Law and wish to remain in the Country for a period which exceeds that originally permitted may get a prorogation of permanence.
- 2- The prorogation of permanence granted to holders of transit and short stay visas may be valid for one or more States which are Party to the Schengen Convention.
- 3- Except in fully justified cases, the prorogation referred to in paragraph 1 may be granted provided the conditions that grounded the admission of the foreign citizen are still in place.
- 4- The temporary stay visa for engaging in subordinated professional activity may only be prorogated if the applicant holds a work contract in the terms of the law and is covered by the National Health Service or by Health Insurance.
- 5- The temporary stay visa to perform a research or highly qualified activity may only be prorogated if the applicant holds a work contract, a contract for supplying services within the ambit of a liberal profession, or a scientific research grant, and is covered by the National Health Service or by Health Insurance.
- 6- Except in fully justified cases, the prorogation of permanence to holders of residence permit for the purpose of engaging in subordinated professional activity, independent activity and research or highly qualified activity depends upon the maintenance of the conditions that grounded the admission of the foreign citizen.

Article 72.º

Limits to the prorogation of permanence

- 1- The prorogation of permanence may be granted:
 - a) Up to 5 days if the applicant holds a transit visa;
 - b) Up to 60 days if the applicant holds a special visa;
 - c) Up to 90 days if the applicant holds a residency visa;
 - d) Up to 90 days, with the possibility of prorogation for another 90 day period, if the applicant holds a short stay visa, or has been admitted into the Country without any visa;
 - e) Up to one year, with the possibility of prorogation for another year, if the applicant holds a temporary stay visa, except for the cases determined in sub-heading c) of paragraph 1, article 54º, in which case the prorogation is only for a 90 day period.
- 2- The prorogation of permanence may be granted beyond the limits specified in the preceding paragraph, while awaiting a resolution concerning a residence permit application, as well as in duly justified cases.
- 3- For exceptional reasons occurred after a legal entry in national territory, a prorogation of permanence may be granted to relatives of the temporary stay holder, but the validity of that prorogation of permanence may not exceed the duration of the visa granted to the family member.
- 4- The prorogation of permanence granted to citizens admitted in the Country without a visa and to holders of short stay visit is limited to Portugal, whenever the stay exceeds 90 days per semester, as of the date of the first entry in an external border.
- 5- Without prejudice to sanctions determined by the present Act, and except if exceptional circumstances occur, the applications for permanence prorogation will not be decided favourably, if they are delivered 30 days after the terminus of the authorized permanence period.
- 6- The prorogation of permanence is granted by means of a self-sealing stamp the model of which will be approved by administrative rule of the Minister of Internal

Affairs.

Article 73.º

Competence

The competence for deciding upon applications for permanence prorogation is held by the Director General of SEF, personally or by legal substitution.

CHAPTER VI

Residency in national territory

Section I

General stipulations

Article 74.º

Types of residence permit

- 1- There are two types of residence permit:
 - a) Temporary residence permit;
 - b) Permanent residence permit.
- 2- The foreign citizen who has been authorized to reside in Portuguese territory will be granted a residence title.

Article 75.º

Temporary residence permit

- 1- Without prejudice to the special legal stipulations applicable, the temporary residence permit is valid for a period of one year, as of the date of issuing the respective title and is renewable for successive periods of two years.
- 2- The residence title must, nonetheless, be renovated whenever an alteration to the identification elements contained in it occurs.

Article 76.º

Permanent residence permit

- 1- The permanent residence permit has no time limit.
- 2- The residence title must, however, be renovated every 5 years or whenever occurs an alteration to the identification elements registered on it.
- 3- When applying for a permit renovation, the holder is exempted from delivering any documents which have been previously inserted in the electronic system used by SEF.

Article 77.º

General conditions for granting a temporary residence permit

- 1- Without prejudice to special applicable conditions, to grant the residence permit the applicant must cumulatively fulfil the following requisites:
 - a) Hold a valid residency visa, granted to one of the purposes established in the present Act as grounds for the concession of a residence permit;
 - b) Inexistence of any fact that is known by the competent authorities that should be an obstacle to granting that visa;
 - c) To be present in Portuguese territory;
 - d) To possess subsistence means, such as defined by the administrative rule referred to in sub-heading d) of paragraph 1 of article 52º;
 - e) To have guaranteed lodgings;
 - f) Being registered in the Social Security, whenever applicable;
 - g) Not having been convicted for any crime punishable with prison sentence superior to one year;
 - h) Not being in a period of ban of entry in national territory, following a removal measure from the Country;
 - i) Absence of any alert in the Schengen Information System for purposes of refusing the entry;

- j) Absence of any alert in SEF's Integrated Information System for purposes of refusing the entry, as per the terms of article 53°.
- 2- Without prejudice to special applicable stipulations, a residence permit may be refused on grounds of public order, security or health.
- 3- The refusal of residence permit on grounds of public health may only be based on diseases that have been defined in the applicable instruments of the World Health Organization, or on other infectious or parasitic contagious diseases which have been object to protection measures in national territory.
- 4- A medical exam may be imposed on applicants of a residence permit in order to establish that he / she does not have any of the above mentioned diseases, and to determine the adequate medical measures.
- 5- The medical exams and measures to which the preceding paragraph refer may not be done systematically.

Article 78.°

Renovation of temporary residence permit

- 1- The renovation of temporary residence permit must be asked for by the interested parties up to thirty days before the terminus of its time limit.
- 2- Residence permits are only validated to third-country nationals if they:
 - a) Possess subsistence means such as defined by the administrative rule mentioned in sub-heading d), paragraph 1, article 52°;
 - b) Have secured lodgings;
 - c) Have fulfilled their fiscal obligations as wells as their obligations to the Social Security System;
 - d) Have not been convicted for crimes with punishment or punishments that individually or cumulatively exceed one year in prison sentence.
- 3- A residence permit may not be renovated for public order or security reasons.

- 4- Any diseases contracted after the issuing of the first residence title is not sufficient grounds to refuse the renovation of residence permit.
- 5- It will not be renovated a residence permit held by a contumacious foreign citizen while he / she does not prove that such declaration has expired.
- 6- If an application is negatively decided upon, a copy of such decision must be forwarded to ACIDI, and to the Consultation Council, together with the motives that grounded that decision.
- 7- The receipt issued against delivery of application for renovation of residence permit is valid as residence title for a period of 60 days, renewable.
- 8- SEF may sign protocols with local councils, as well as with departments of the Autonomous Regions, in order to facilitate and simplify the procedures for renovating residence permits and respective titles.

Article 79.º

Renovating residence permits in special cases

- 1- The residence permits of foreign citizens who are in prison may only be renovated, provided the respective holders have not been object to an expulsion measure.
- 2- The application for renovating a residence permit whose validity expired does not imply any proceedings, provided it is delivered up to 30 days as of the date the interested party was released from prison.

Article 80.º

Granting a permanent residence permit

- 1- Without prejudice to stipulations of the present Act concerning the status third State nations who are long term residents, a permanent residence permit will be granted to foreign citizens that cumulatively fulfil the following conditions:
 - a) Holding a temporary residence permit for at least five years;
 - b) During the last five years of residency in Portuguese territory have not been convicted for crimes in penalty or penalties that, individually or cumulatively, exceed one year in prison sentence;
 - c) Possess subsistence means, such as defined by the administrative rule referred to in sub-heading c), paragraph 1, article 52º;
 - d) Have guaranteed lodgings;
 - e) Prove to have sufficient command of basic Portuguese language.
- 2- The period of residence prior to the present Act coming into force, is relevant to accomplish the determinations of the preceding paragraph.

Article 81.º

Application for a residence permit

- 1- The application for a residence permit may be delivered by the interested party or by a legal representative and must be presented to SEF.
- 2- The application may cover minors under guardianship of the applicant.
- 3- While awaiting a decision regarding an application for a residence permit, for reasons that are not his / her responsibility, the applicant is not forbidden to carry out a professional activity in the terms of the Act.
- 4- The applicant of a residence permit may simultaneously apply for family reunion.

Article 82.º

Decision and notification

- 1- The application for concession of a residence permit must be decided upon within 60 days.
- 2- The application for renovating a residence permit must be decided upon within 30 days.
- 3- Failing a decision within the time limits established in the preceding paragraph for reasons that are not imputable to the applicant, the decision is considered favorable, and the issuing of the residence title should be done immediately.
- 4- A dismissal is communicated to the applicant, indicating the grounds for the refusal, as well as the right to appeal judicially and respective time limit for that action, and a copy is sent to the Consultation Council.

Article 83.º

Rights of a residence permit holder

- 1- Without prejudice to the application of special stipulations and other rights established in the law, or in international conventions that Portugal is a Party to, the holder of residence permit is entitled, without need to obtain any special authorization on grounds of being a foreigner, to
 - a) Education and tuition;
 - b) Engaging in a subordinated professional activity;
 - c) Engaging in independent professional activity;
 - d) Professional guidance, training, improvement and rehabilitation;
 - e) Health care;
 - f) Law and Courts.
- 2- The application of stipulations that guarantee equal treatment to foreign citizens is guaranteed, specifically in what concerns social security, fiscal benefits, participating in workers unions, recognition of diplomas, certificates and other professional credentials or documents that grant them access to goods and services

at the public's service, as well as the application of stipulations that grant them special rights.

Article 84.º

Identification document

The residence title replaces, for all legal effects, the identification document, without prejudice to the framework established in the Treaty of Friendship, Cooperation and Consultation (Tratado de Amizade, Cooperação e Consulta) between the Portuguese Republic and the Federative Republic of Brazil, signed in Porto Seguro on the 22nd April 2000.

Article 85.º

Cancellation of residence permit

- 1- A residence permit will be cancelled whenever:
 - a) Its holder has been object to an expulsion decision from national territory; or
 - b) The residence permit has been obtained on grounds of false or fraudulent declarations, of false or forged documents, or through fraudulent means; or
 - c) In relation to the holder of which there are strong reasons to believe that he / she committed serious criminal acts, or there is strong evidence that he / she intends to commit acts of that same nature, specifically in European Union territory; or
 - d) By reasons of public order or security.

- 2- Without prejudice to the application of special stipulations, the residence permit may equally be cancelled when the interested party, without reasonable motives, is absent from the Country:
 - a) Being the holder of a temporary residence permit, six consecutive months or eight interpolated months, within the total validity period of the authorization;
 - b) Being the holder of a permanent residence permit, 24 consecutive months or,

in a period of three years 30 interpolated months.

- 3- The absence from the Country beyond the limits established in the preceding paragraph has to be justified by means of an application delivered to SEF, before residents leave national territory, or, in exceptional cases, after departure.
- 4- The residence permit of citizens that are absent for longer periods than those established in paragraph 2 will not be cancelled, when they prove that, during their stay abroad they resided in their Country of origin where they carried out a professional or business activity or one of social or cultural nature.
- 5- Any cancellation of residence permit must be communicated to the interested party as well as, by electronic means, to ACIDI, and to the Consultation Council, together with specification of the facts that grounded that decision and which results in the seizing of the respective title.
- 6- The competency for cancelling residence permits belongs to the Minister of Internal Affairs, personally or legally substituted by the Director General of SEF.
- 7- The cancelling decision is susceptible to judicial contesting, which has a devolutive effect only, to the administrative courts.

Article 86.º

Registry of residents

Residents must inform SEF about any alteration to their civil status or address, within 60 days of it occurring.

Article 87.º

Foreigners who are exempt from having a residence permit

- 1- A residence permit is not demanded from diplomatic or consular agents who have been endorsed in Portugal, from administrative, domestic service or equivalent staff that serves diplomatic missions or consular posts of their respective States, from members of staff of international organizations with head office in Portugal neither from their family members.
- 2- The persons indicated in the preceding paragraph are endorsed with an identification document issued by the Ministry of Foreign Affairs, after consulting SEF.

Section II

Residence permits for carrying out a professional activity

Article 88.º

Residence permits for carrying out a subordinated professional activity

- 1- Beyond the general conditions, established in article 77º, residence permit for carrying out a subordinated professional activity will only be granted to third-country nationals who have a legal work contract and are registered in the Social Security System.
- 2- Exceptionally, against a proposal of Director General of SEF or by initiative of the Minister of Internal Affairs, the requisite established in sub-heading a), paragraph 1, article 77º may be dispensed with, provided the foreign citizen, apart from the other general conditions established in that disposition, fulfils the following conditions:
 - a) Holds a work contract or has a labour connection confirmed by a workers' union, by an association which is party to the Consulting Councilor, or by the Work General Inspectorate;
 - b) Has legally entered in national territory and here remains legally;

- c) Is registered in the Social Security System and accomplished all his /her obligations to that department.
- 3- The granting of residence permit within the terms of the preceding paragraphs is communicated to SEF, by electronic means, to the Employment and Vocational Training Institute, and, in the Autonomous Regions, to the corresponding regional services, in order to execute the quotas defined in article 59°.
- 4- The granting of residence permit within the terms of the preceding paragraphs is communicated to SEF, by electronic means, to the Work General Inspectorate or, in the Autonomous Regions to the respective regional secretariat, so that these departments may inspect the accomplishment of all legal obligations of the employers in relation to the residence permit holder, as well as to the Fiscal Authorities and the relevant services of the Social Security.

Article 89.º

Residence permits for carrying out an independent professional activity

- 1- Beyond the general requisites established in article 77º, it is only granted a residence permit for the purpose of carrying out an independent professional activity to third-country nationals that fulfil the following requisites:
 - a) Have formed a company within the terms of the law, have declared the start of activity to the Fiscal and to the Social Security Authorities as an individual entrepreneur, or have signed a contract for providing services within the ambit of a liberal profession;
 - b) Detain the necessary qualifications to engage in an independent professional activity, when applicable;
 - c) Possess the subsistence means, such as defined in sub-heading d), paragraph 1, article 52º;
 - d) Are registered in the Social Security;
 - e) When required, present a declaration issued by the respective Bar Association that certifies their ability to fulfil the requisites of membership.

- 2- Exceptionally, against a proposal of Director General of SEF or by initiative of the Minister of Internal Affairs, the requisite established in sub-heading a), paragraph 1, article 77° may be dispensed with, provided the foreign citizen entered and remained legally in national territory.
- 3- The holder of a residence permit for the purpose of carrying out an independent professional activity may engage in a subordinated professional activity, in which case is applicable, with the necessary modifications, the disposition of the preceding article, and the residence title has to be replaced.

Article 90.º

Residence permits for research or highly qualified activity

- 1- A residence permit for research purposes, for teaching in a high level teaching institution, or for highly qualified activity, will be granted to third-country nationals who, apart from the conditions established in article 77°, fulfil the following requisites:
 - a) Are admitted as assistants in officially acknowledged research centre by means of a work contract, a contract for providing services, or a scientific research grant; or
 - b) Hold a work contract or contract for providing services which is compatible with carrying out a teaching activity in a high level teaching institution or with a highly qualified activity;
 - c) Are registered in the Social Security System.
- 2- The applicant may be exempted from the requisite mentioned in sub-heading a), paragraph 1, article 77°, whenever he has entered and remained legally in national territory.
- 3- The holder of a residence permit granted according to the contents of sub-heading a) paragraph 1 may carry out a teaching activity within the terms of the law.

Section III

Residence permits for studying, unremunerated vocational training or voluntary service

Article 91.º

Residence permit granted to high level students

- 1- A residence permit is granted to a high level student (University or equivalent) who holds a residence visa issued in accordance to the stipulations of paragraphs 2 and 4 of article 62º provided the applicant:
 - a) Proves to be enrolled and to have paid the respective fees charged by the teaching institution;
 - b) Possesses subsistence means, such as defined by the administrative rule mentioned in sub-heading d), paragraph 1, article 52º;
 - c) Is covered by the National Health Service or has health insurance.
- 2- The residence permit is valid for a one year period and renewable for equal periods, provided its holder continues fulfilling the conditions established in the preceding paragraph.
- 3- Exceptionally, a residence permit may be granted for purposes of studies in high level teaching institution dispensing with the requisite of sub-heading a), number 1, article 77º, whenever the third-country national has legally entered and legally remained in Portugal and fulfils the conditions established in paragraph 1.
- 4- If the duration of the studies program is inferior to one year, the residence permit is issued for the necessary period to cover the duration of the studies.

Article 92.º

Residence permit granted to secondary level students

- 1- A residence permit will be issued to holders of residency visa for the purpose of carrying out secondary level studies, provided the applicant is enrolled in a secondary level teaching institution and covered by the National Health Service or by health insurance.
- 2- The validity of the residence permit to which the preceding paragraph refers may not exceed one year, and may be renovated for a similar period, provided the conditions for granting are still in place.

Article 93.º

Residence permits for unremunerated trainees

- 1- A residence permit will be issued to a holder of residency visa for the purpose of accomplishing unremunerated traineeship, provided the individual is covered by the National Health Service or by health insurance.
- 2- The granting of residence permit in the terms of the preceding paragraph depends upon delivery by the interest party of a traineeship contract to carry out an unremunerated training course with a company or officially acknowledged vocational training institution, which has been certified by the Employment and Vocational training Institute.
- 3- The validity of the residence permit to which the paragraph 1 refers, corresponds to the duration period of the training course or to maximum of one year.
- 4- In exceptional cases, the residence permit may be renovated once, exclusively for the period of time that is required to obtain an officially acknowledged professional qualification, provided its holder continues to fulfil the conditions established in paragraph 2 of the present article and in paragraph 2 of article 62º.

Article 94.º

Residence permit for voluntaries

- 1- A residence permit will be issued to a holder of residency visa for the purpose of participating in a voluntary work program, provided the individual is covered by the National Health Service or by a health insurance.
- 2- The granting of residence permit in the terms of the preceding paragraph depends upon delivery by the interest party of contract which has been signed with the organization in charge of such program in Portugal, which describes the tasks that the applicant will carry out, the conditions he / she will benefit from to proceed with those tasks, the time schedule that must be accomplished, as well as, if applicable, the traineeship the individual will receive in order to fulfil his / her duties adequately.
- 3- The validity of the residence permit referred to in paragraph 1 may not exceed one year.
- 4- In exceptional cases, if the duration of the respective program is superior to one year, the validity of the residence permit may correspond to the total period of the program.
- 5- The residence permit granted under the terms of this article is not renewable.

Article 95.º

Cancellation of and non renewable residence permits

Without prejudice to the disposition of article 78º and 85º, the residence permit issued on the grounds of the stipulations of the present section may be cancelled or not renovated if its holder:

- a) Does not fulfil or ceases to fulfil the requisites stipulated in article 62º, or in respect to their category, in articles 91º to 94º;
- b) Does not accomplish the disposition of article 97º; or
- c) Has not progressed with positive marks in his / her plans of studies.

Article 96.º

Transparency and procedural guarantees

- 1- The decision upon an application for obtaining renovation of a residence permit is taken and communicated to the applicant within a period of time that does not hinder the pursuing of studies, without prejudice to a reasonable period of time to process the application.
- 2- If the information supplied by the applicant is insufficient, its analysis may be suspended, while the required additional information is demanded from the interested party.
- 3- A refusal on granting residence permit is communicated to the applicant, together with indication of its grounds, as well as notification of the judicial impugnation right and the respective time limit for proceeding with it.
- 4- A refusal on granting residence permit as well as a cancellation of the same, within the terms of the present section is susceptible of judicial impugnation, which has a devolutive effect to the administrative courts.

Article 97.º

Carrying out a subordinated professional activity

- 1- It is interdicted to holders of residence permit for purposes of unremunerated vocational training or participation in voluntary service program to engage in any remunerated professional activity.
- 2- Out of the period which was scheduled to accomplish the program of studies and under reserve of the applicable rules and conditions of the relevant activity, students may engage in a subordinated professional activity, as per the terms of paragraph 1, article 88º, after obtaining an authorization form SEF to that effect.
- 3- SEF is under the obligation of sending notifications as specified in paragraphs 3 and 4 of article 88º.

Section IV

Residence permits for family reunion

Article 98.º

Right to family reunion

- 1- A citizen with valid residence permit has the right to family reunion with the family members that are out of national territory, and who lived with him / her in a another Country, or that dependent from him / her, or that live in cohabitation, independently from the family ties having been created before or after the resident entered in Portugal
- 2- In the circumstances referred to in the preceding paragraph is equally acknowledged a right to family reunion with the relatives who have legally entered national territory and depend from or live in cohabitation with the holder of a valid residence permit.
- 3- Refugees, acknowledged in the terms of the law of asylum, have the right to family reunion with family members who are in national territory or abroad, without prejudice to the legal stipulations that grant refugee status to the respective family members.

Article 99.º

Family members

- 1- To the purposes of the stipulations of the preceding article, are considered members of the resident's family:
 - a) The spouse;
 - b) Underage or incapable children under guardianship of the couple or of one spouse;

- c) Minors adopted by an unmarried applicant, by a married applicant or by the spouse, following decision taken by the relevant authority of the Country of origin, provided that legal framework incorporates the same rights and duties of natural affiliation and provided that decision is acknowledged by Portugal.
 - d) Children who are of age, and of whom the couple or one of the spouses is in charge, and study in a Portuguese teaching institution
 - e) Progenitors in first direct line of kindred to the resident or the respective spouse provided they depend from either of those.
 - f) Underage brothers or sisters provided they are under the tutelage of the resident, in accordance to decision made by a relevant authority of the Country of origin and provided that decision is acknowledged by Portugal.
- 2- Are also considered family members of the unaccompanied minor refugee to the purposes of family reunion:
- a) Direct ascendant in first degree of kindred;
 - b) His / her legal guardian or any other relative, if the refugee has no direct ascendants or if their locating proves impossible to determine.
- 3- Are equally considered family members to the purposes of family reunion concerning the holder of residency visa for purposes of study, unremunerated traineeship or voluntary service, only those relatives specified in sub-headings a) and c) of paragraph 1.
- 4- Family reunion with underage or incapable child of one of the spouses depends upon authorization of the other progenitor, or upon decision of relevant authority according to which the child has been entrusted to that spouse.
- 5- To accomplish the disposition of paragraph 2, it is considered unaccompanied minor a third-country national or stateless person under the age of 18 years old, who:
- a) Has entered national territory unaccompanied and is not under the guardianship of a responsible adult, on grounds of the law or of the consuetudines; or
 - b) Has been abandoned upon his / her entry in national territory.

Article 100.º

Common Law marriage

- 1- Family reunion may be authorized to:
 - a) A partner who maintains, either in national territory or abroad, a *de facto* union duly acknowledged in the terms of the law with a foreign citizen;
 - b) The unmarried underage children or those considered incapable, including the children adopted by a *de facto* partner, provided they have been entrusted to that partner.
- 2- To family reunion in the terms of the preceding paragraph will be applicable, with the necessary alterations, the stipulations concerning the right to family reunion.

Article 101.º

Conditions to benefit from the right to family reunion

- 1- In order to benefit from the right to family reunion the applicant must have secured:
 - a) Lodgings;
 - b) Subsistence means, such as defined in the administrative rule mentioned in sub-heading d), paragraph 1, article 52 º.
- 2- The stipulations of the preceding paragraph are not applicable to refugees' family reunion.

Article 102.º

Competent Authority

The decision regarding applications for family reunion is of the competence of SEF's Director General, personally or by legal substitution.

Article 103.º

Application for family reunion

- 1- The application for family reunion with family members who are abroad is to be delivered by the citizen who is entitled to that right.
- 2- Whenever the family members are in national territory, the application for family reunion may be delivered either by the family members or by the citizen who is entitled to that right.
- 3- The application must include the following:
 - a) Documents that prove the existence of relevant family ties or of the *de facto* union;
 - b) Documents that prove the fulfilment of all conditions to obtain family reunion;
 - c) Notarised copies of travelling documents which belong to the family members or to the *de facto* partner.
- 4- When a refugee is unable to present official documents that prove a family tie, other proofs of the existence of such relationship must be taken into consideration.

Article 104.º

Judgement of an application

- 1- SEF may, if necessary, interview the applicant of family reunion, and his / her family members, and conduct any other inquiries deemed necessary.
- 2- When examining an application regarding a *de facto* partner of the family reunion applicant, SEF must ponder factors such as the existence of common children, former cohabitation, and the register of the partnership as well as any other trustworthy means of proof.

Article 105.º

Time limits

- 1- At the earliest possible date, and in any case within three months, SEF notifies the applicant in writing on the decision reached.
- 2- In exceptional circumstances related to possible complexities when examining an application, the maximum time limit for an answer may be prorogued for three months, in which case the applicant will be advised of that fact.
- 3- An application not decided upon six months after its delivery is considered tacitly granted.
- 4- In case of tacit granting, SEF will certify it, upon request of the applicant, and informs the Director General of Consular and Portuguese Communities Affairs, for the purpose of issuing a residency visa as per the terms of article 64º.

Article 106.º

Application dismissal

- 1- An application for family reunion may be dismissed, in the following situations:
 - a) When the conditions for the entitlement to family reunion are not satisfied;
 - b) When the family member is banned from national territory;
 - c) When the presence of the family member represents a threat to public policy, security or health.
- 2- When the granting of application for family reunion is hindered by reasons of public policy, or security, the seriousness or type of infringement to public order or security perpetrated by the family member, or the dangers that may arise from the permanence of that person in national territory, must be taken into consideration.

- 3- Before deciding for a dismissal of the family reunion application, the nature and soundness of the family ties, the time of permanence in Portugal and the existence of family, cultural and social ties with the Country of origin, will be pondered.
- 4- The dismissal of an application delivered by a refugee may not have as sole motive the lack of documents proving the family links.
- 5- The dismissal of an application must be communicated, by means of forwarding a copy of the decision, with the respective reasons that grounded it, to ACIDI, and to the Consultation Council.
- 6- The applicant is notified of the dismissal of an application as well as of the reasons that grounded it, and the right to judicial impugnation and the respective time limit for proceeding with it.
- 7- The dismissal of an application for family reunion is susceptible to judicial impugnation with devolutive effect to the administrative courts.
- 8- When the members of the family are already in national territory the dismissal of an application is exclusively grounded on the non-accomplishment of the conditions established in sub-heading a), paragraph 1, the judicial impugnation has a suspensive effect.

Article 107.º

Residence of the family members

- 1- A family member who holds a visa in accordance to the terms of article 64º, or who is in national territory after having obtained granting to an application of family reunion, is entitled to a residence permit with similar validity to that of the resident.
- 2- A family member of the holder of a permanent residence permit is entitled to a residence permit with a validity of two years.
- 3- Two years after the issuing of the first residence permit to which the preceding paragraphs refers, and assuming that the family ties continue to exist, or independently from the mentioned period of time, whenever the person entitled to family reunion has underage children who reside in Portugal, the family members

are entitled to an autonomous permit.

- 4- In exceptional cases, including judicial separation of spouses and patrimony, divorce, widowing, death of an ascendant or descendent, conviction for domestic violence and when the person becomes of age, an autonomous residence permit may be granted, before the end of the time limit established in the preceding paragraph.
- 5- The first residence permit granted to a spouse under the legal framework of family reunion will be autonomous, provided he / she has been married for more than five years to the resident.

Article 108.º

Cancelling the residence permit

- 1- Without prejudice to the arrangements of article 85.º the residence permit issued under the right to family reunion is cancelled when the marriage, register partnership or adoption had for only purpose allowing the concerned party to entry or reside in the country.
- 2- There may be inquiries and specific control actions when there are strong indications of fraud or marriage, partnership or adoption of convenience as laid down in the preceding number.
- 3- Before the decision on cancelling the residence permit under family reunion is made the nature and strength of the person's family ties, his/her period of residence in Portugal and the existence of family cultural and social ties with the country of origin are taken in due account.
- 4- The decision on cancelling is made after audition of the foreign citizen which is valid for all purposes as audition of the concerned party.
- 5- The decision on cancelling is conveyed by notification to the concerned party containing its grounds, the right to take on judicial review and its term.
- 6- The decision on cancelling is conveyed electronically to ACIDI, and to the Consulting Council.

- 7- The decision on cancelling the member of the family permit according to what is laid down in n.º 1 may be taken on judicial review with suspensive effect before the administrative courts of law.

Section V

Residence permit issued to victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration

Article 109.º

Residence permit

- 1- A residence permit is given to the foreign citizen who is or has been a victim of penal infractions connected to trafficking in human beings or subject of an action to facilitate illegal immigration even if he/she has illegally entered the country or doesn't fulfil the conditions for receiving a residence permit.
- 2- The residence permit mentioned in the preceding number is issued after the expiry of the reflection period as foreseen in article 111.º if:
 - a) It is necessary to extend the permanence of the concerned party in national territory considering the interest his/her presence may have to judicial investigations and proceedings;
 - b) Whether he/she shows a clear intention to cooperate with the authorities in the investigation and repression of trafficking in human beings and facilitation of illegal immigration;
 - c) Whether he/she has severed all relations with those suspected of the offences listed in the preceding number.
- 3- The residence permit may be granted before the expiry of the reflection period foreseen in article 111.º, if it is clear that the concerned party fulfils the criterion set out in sub-heading *b)* of the preceding number.
- 4- It may also be granted after the expiry of the reflection period foreseen in article 111.º a residence permit to the foreigner citizen who is identified as a victim of

trafficking in human beings under special legislation, exempted of the conditions laid down in sub-headings *a)* and *b)* of n.º 2.

- 5- The residence permit granted under the stipulations of the preceding numbers is valid for one year and shall be renewed for equal periods if the conditions listed in n.º 2 are still met or if there is need to maintain the protection of the person identified as victim of trafficking in human beings, under special legislation.

Article 110.º

Information given to victims

When the competent authorities or organisations acting in the field of victim protection take the view that a foreign citizen may fall into the scope of the preceding article they shall inform he/she of the possibilities offered under this section.

Article 111.º

Reflection period

- 1- Before the issuing of the residence permit foreseen in article 109.º, SEF will grant a reflection period to the concerned person allowing him/her to recover and escape the influence of the perpetrators of the known offences.
- 2- The reflection period mentioned in the preceding number has a minimum duration of 30 days and a maximum duration of 60 days, from the starting point in which the competent authorities ask for his/her collaboration, the starting point in which the concerned person comes forth in collaborating with the competent authorities in charge of the investigation or the starting point in which the person is identified as a victim of trafficking in human beings under the stipulations of the applicable special legislation.
- 3- During the reflection period the concerned person is entitled to the treatment foreseen in article 112.º and it shall not be possible to enforce any expulsion order against him/her.

- 4- The reflection period shall not create any entitlement to residence under the present section.

Article 112.º

Rights of the victim before the granting of the residence permit

- 1- Before the granting of a residence permit the person identified as victim of trafficking in human beings or subject to an action to facilitate illegal immigration, and not having standards of living capable of ensuring his/her subsistence, is granted access to a suitable and urgent medical treatment.
- 2- For the purposes of the arrangements of the preceding number the specific needs of the most vulnerable persons including psychological assistance, if necessary, are taken in due account.
- 3- It is also assured the protection of the concerned person mentioned in n.º 1.
- 4- If necessary the concerned person mentioned in n.º 1 is given translations and interpretation services, as well as juridical services under the stipulations of the law.

Article 113.º

Rights of the holder of residence permit

- 1- The holder of a residence permit granted under article 109.º who does not have sufficient resources falls within the scope, with the necessary adaptations, of the arrangements of the preceding article.
- 2- Holders of a residence permit granted under the stipulations of article 109.º who do not have sufficient resources and have special needs, such as pregnant women, the disabled or victims of sexual violence or other forms of violence, are given the necessary medical and social assistance.
- 3- The holder of a residence permit granted under article 109.º is given access to official existing programs whose purpose is to help him/her recovering a normal social life

including courses designed to improve their professional skills or preparation of their assisted return to their country of origin.

Article 114.º

Minors

- 1- When applying the arrangements of articles 109.º to 112.º the best interests of the child are taken in due account and the procedures must be appropriate to his/her age and maturity.
- 2- The reflection period foreseen in n.º 2 of article 111.º may be extended if it is in the best interest of the child.
- 3- Minors who are victims of trafficking in human beings or subject to an action facilitating illegal immigration have access to the educational system under the same conditions as nationals.
- 4- All steps are taken to establish the identity and nationality of the unaccompanied minor as established in n.º 5 of article 99.º, as well as every effort to locate his/her family as quickly as possible and ensure legal representation including representation in legal proceedings if necessary in accordance to law.

Article 115.º

Cancelling the residence permit

- 1- Without prejudice to the arrangements of article 85.º, the residence permit granted under the present section may be cancelled at any time if:
 - a) The holder has actively, voluntarily and in his/her own initiative renewed contacts with the suspects of committing trafficking in human beings or action to facilitate illegal immigration; or

- b)* The competent authority believes that the victim's cooperation is fraudulent or that his/her complaint is wrongful or fraudulent; or
 - c)* The victim ceases to cooperate.
- 2- Sub-heading *c)* of the preceding number is not applicable to holders of the residence permit granted under n.º 4 of article 109.º

Section VI

Residence permit granted to holders of long-term resident status in other member State of the European Union

Article 116.º

Right to residence of the holder of long-term resident status in other Member State of the European Union

- 1- The national from a third-country who has acquired a long-term resident status in another Member State of the European Union and stays in the national territory for more than three months is entitled to reside if:
- a)* Has a professional activity as worker; or
 - b)* Is self-employed; or
 - c)* Embarks on a studies program or vocational training; or
 - d)* Presents a strong motive to settle in national territory.
- 2- The arrangements of the preceding number are not applicable to long-term residents who stay in the national territory as:
- a)* Workers on the pay roll of a service-rendering employer working within a framework of transboundary service-rendering;
 - b)* Transboundary service-rendering employers.

- 3- The arrangements of the preceding number do not impair the application of community legislation on suitable social security applicable to third-country nationals.
- 4- Nationals from third-countries under n.º 1 are granted residence permit as long as they have:
 - a) Ways of ensuring their livelihood;
 - b) Lodging.
- 5- For the purposes of appreciation of the requisite foreseen in sub-heading *a)* of the preceding number resources must be estimated by reference to its nature and regularity, considering the level of minimum wages and allowances.
- 6- The granting of a residence permit to third-country nationals under sub-heading *a)* of n.º 1 falls into the scope of the arrangements of n.º 1 of article 88.º
- 7- The granting of a residence permit to third-country nationals under sub-heading *b)* of n.º 1 falls into the scope of the arrangements of n.º 1 of article 89.º
- 8- The granting of a residence permit to third-country nationals under sub-heading *c)* of n.º 1 depends on the presentation by the concerned person of a registration in an officially recognised superior level teaching establishment, or admission in an officially recognised establishment or company of vocational training.

Article 117.º

Residence permit application

- 1- Within three months from his/her entry in national territory the long-term resident mentioned in the preceding article must present a request for a residence permit at SEF.
- 2- The request mentioned in the preceding number must be presented along with documents confirming that the applicant fulfils the conditions of exercising his/her right to residence as mentioned in the preceding article.

- 3- The request is made along with long-term residence title and a valid travelling document or certified copies of those documents.
- 4- The decision on a request to residence permit presented in accordance to the preceding article is taken within three months.
- 5- If the request is not presented with the documents mentioned in n.º 2 and 3, or in exceptional circumstances driven by the complexity of the request analysis the foreseen period mentioned in the preceding number may be extended for a period no longer than three months and the applicant must be informed of this period extension.
- 6- The Director General of SEF is competent to decide over the granting of a residence permit in accordance to the present section and has the power to delegate.
- 7- The absence of a decision within six months equals the granting of the residence permit.
- 8- The granting of a residence permit to a long-term resident as well as to his/her family members is reported by SEF to the competent authorities of the Member State which granted the long-term resident status.

Article 118.º

Family reunion

- 1- Residence permit in national is granted to family members of the residence permit holder granted in accordance to the stipulations of article 116.º that live with him/her in the Member State that first granted him/her the status of long-term resident for the first time ever.
- 2- For the purposes of the stipulations of the preceding number family members are those mentioned in n.º 1 of article 99.º, as well as persons mentioned in n.º 1 of article 100.º
- 3- The presentation of the request for a residence permit is ruled by the stipulations of the preceding article.

- 4- The concerned person must complete his/her request for a residence permit with:
 - a) His/her EC long-term residence title and a valid travelling document or certified copies of the aforementioned;
 - b) A prove that he/she resided in the Member State which granted him/her the long-term resident status for the first time as a family member or registered partner of a long-term resident;
 - c) A prove that he/she has ways of ensuring his/her livelihood and falls into the scope of the national health service or has a health insurance.
- 5- For the purposes of evaluation of the ways of livelihood mentioned in sub-heading c) of the preceding number, its nature and regularity as well as the level of minimum wages and allowances must be taken into account.
- 6- In case the family isn't already constituted in the Member State which granted him/her the long-term resident status for the first time ever the arrangements of Section IV chapter VI apply.
- 7- To family members who fall into scope of the preceding numbers is granted a residence permit of identical length as the one granted to the long-term resident, and the arrangements of n.º 8 of the preceding article apply.

Article 119.º

Public policy, public security and public health

- 1- The request for a residence permit presented in accordance to the present section may be rejected when the concerned person represents a threat to public policy or public security.
- 2- The decision for the rejection in accordance to the stipulations of the preceding number must take into account the seriousness or type of offence to public policy or security committed by the long-term resident or his/her family member, or the dangers that might spring from the permanence of that person in national territory.
- 3- The decision mentioned in n.º 1 must not be grounded on economical reasons.

- 4- The request for a residence permit by a long-term resident or his/her family member may also be rejected if the concerned person represents a threat to public health under the stipulations of n.º 3 of article 77.º.
- 5- The arrangements of n.º 4 and 5.º of article 77.º are applicable to the situations mentioned in the preceding number.

Article 120.º

Cancelling and non-renewal of the residence permit

- 1- Without prejudice of the arrangements of article 85.º, meanwhile the holder of a residence permit granted in accordance to the present section has not yet been granted the long-term resident status in national territory he/she can be the subject of a decision of cancelling or non-renewal of the residence permit in the following situations:
 - a) For reasons of public policy or public order whereas it must be taken into consideration the seriousness or the type of the offence committed to public policy or public security or the dangers that might spring from the permanence of the concerned person in the national territory as well as the length of residence and the existence of links to the country;
 - b) When the conditions foreseen in articles 116.º e 118.º are not fulfilled.
- 2- The cancelling or non-renewal of the long-term resident's residence permit or his/her family member is reported by SEF to the competent authorities of the Member State which granted the long-term resident status for the first time ever.

Article 121.º

Procedural safeguards

- 1- The decision of rejecting a request for a residence permit, of non-renewal or cancelling of a granted residence permit in accordance to the present section is notified to the concerned person indicating its grounds, the right to take on judicial review and its period.
- 2- Decisions mentioned in the preceding number are electronically reported to ACIDI, and the Consultation Council.

Section VII

Residence permit under special circumstances

Article 122.º

Residence permit with exemption of residence visa

- 1- Nationals from third-countries do not need visa for the granting of temporary residence permit, such as:
 - a)* Minors, offspring of foreign citizens holders of a residence permit, born in Portuguese territory;
 - b)* Minors born in national territory who have stayed here and are attending pre-school education or primary school, secondary or professional education;
 - c)* Offspring of holders of a residence permit who have reached the age of majority and usually stayed in national territory since they were 10 years old;
 - d)* Adults born in national territory who never left the country or have stayed here since before the age of 10 years old;
 - e)* Minors who are compulsory under guardianship in accordance to the Civil Code;
 - f)* Citizens who no longer have the right to asylum in Portugal because the reasons for which they obtained this protection have ceased;

g) Who suffers from a disease that requires prolonged medical assistance preventing him/her to return to the country in order to avoid a health hazard to the concerned person;

h) Having served in the Portuguese Armed Forces;

i) Who, albeit losing Portuguese nationality stayed in national territory in the last fifteen years;

j) Who hasn't left national territory and whose residence right hasn't become null and void;

l) Having minor children resident in Portugal or with Portuguese nationality over who he/she exercises effective parenthood power and over whom ensure livelihood and education;

m) Diplomatic and consular agents or his/her spouse, ancestors and descendants being in charge of the former accredited in Portugal for a period no less than three years;

n) Who are or have been victims of a penal offence or serious or very serious regulatory offence related to work, rendering in lack of social protection conditions, salary and working hours exploitation, for which there are proved evidence at the General Labour Inspection, and as long as he/she has denounced the infraction to the authorities and collaborate with them;

o) Having been granted residence permit under article 109.º;

p) Who, having been granted a residence permit for purpose of studies under articles 91.º or 92.º, and having concluded them intend to carry out in national territory a professional activity, as employee or self-employed except for the cases when the permit has been issued within the scope of co-operation agreements and there are no ponderous motives of national interest that justify it;

q) Who, having been granted a temporary staying visa for a research or highly qualified activity in purposes to carry out in national territory a research activity, a teaching activity in a higher education establishment or subordinate or independent highly qualified research.

2- For the cases foreseen in sub-headings *o)*, *p)* and *q)* of the preceding number the arrangements of articles 88.º, 89.º or 90.º, duly adapted, according to cases.

- 3- It is also granted a residence permit with exemption of visa to first degree ancestors of foreign citizens under sub-heading *b)* of n.º 1, who effectively exercise parenthood powers being that the requests may be filed simultaneously.
- 4- If the minor, with no well-founded reason, stops attending pre-school or primary school, the temporary residence permit granted in accordance to sub-heading *b)* of n.º 1 and n.º 3 is cancelled or non-renewed.
- 5- If the minor, with no well-founded reason, stops attending secondary school or primary school, the temporary residence permit granted in accordance to sub-heading *b)* of n.º 1 and n.º 3 is cancelled or non-renewed..
- 6- Holders of a residence permit granted with visa exemption under the preceding numbers are entitled to benefit from the rights foreseen in article 83.º

Article 123.º

Exceptional Framework

- 1- All situations that may arise which do not fall into the scope of the arrangements foreseen in article 122.º, as well as for the cases where residence permit is granted for humanitarian reasons in accordance with the asylum law which rules the right to asylum, through a proposition of the Director General of SEF or by initiative of the Ministry of Internal Affairs a temporary residence permit can be granted to foreign citizens who do not fulfil the requirements of the present law:
 - a)* For reasons of national interest;
 - b)* For humanitarian reasons;
 - c)* For public interest reasons resulting from the exercise of a relevant activity in science, culture, sports, economical or social activities.
- 2- The decisions of the Ministry of Internal Affairs over the requests for residence permit made under the exceptional regime foreseen in the present article must be duly founded.

Article 124.º

Foreign minors born in the country

- 1- Foreign minors born in Portuguese territory benefit of a resident status identical to any of his/her parents.
- 2- For the purposes of issuing a residence title, any of the parents must file his/her request in the following six months after the birth of the minor.
- 3 After the expiry of the period foreseen in the preceding number any citizen may request from the curator of minors replacing the minors the status granting for the minors.

Chapter VII

Long-term resident status

Article 125.º

Beneficiaries

- 1- Third-country nationals residing legally in national territory and fulfilling the conditions laid down for the granting of the status can benefit from resident status.
- 2—Third-country nationals do not benefit from long-term resident status if:
 - a) Hold a residence permit for studying, unremunerated professional internship or volunteerism;
 - b) Are authorised to reside in national territory under temporary protection or having filed a residence permit for that reason and are waiting a decision on their status;

- c) Are authorised to reside in Portugal under a subsidiary protection form or having requested a residence permit for humanitarian reasons and wait a decision on their status;
- d) Are refugees or asylum-seekers and their request waits definite decision;
- e) Stay in Portugal only for temporary motives as season workers, workers placed by a service rendering employer for transboundary service rendering, or transboundary service rendering employers;
- f) Benefit from a juridical status under the Vienna Convention on diplomatic relations adopted in April 18, 1961 or the Vienna Convention on consular relations adopted in April 24.

Article 126.º

Conditions to acquire a long-term resident status

- 1- Status of long-term resident is granted to the third-country national who:
 - a) Has a legal and uninterrupted residence in national territory for at least five years before filing the request;
 - b) Has stable and regular resources for his/her own livelihood and his/her family members without help from the solidarity subsystem;
 - c) Holds a health insurance;
 - d) Has lodging;
 - e) Proficient in basic Portuguese.
- 2- Residence periods for the reasons mentioned in sub-headings *e)* and *f)* of n.º 2 of the preceding article are not relevant for the assessment of the period mentioned in sub-heading *a)* of the preceding number.
- 3- For the cases which fall into the scope of sub-heading *a)* of n.º 2 of the preceding article, every time a third-country national has been granted a residence permit entitling him/ her to benefit from a long-term resident status, the period in which he/her was holder of a resident permit for study purposes, unremunerated vocational

training or volunteerism is accounted for, in half, for the assessment of the period mentioned in sub-heading *a*) of n.º 1.

- 4—Periods of absence from national territory do not interrupt the period mentioned in sub-heading *a*) of n.º 1 and are used for its assessment if they are minus than 6 successive months and do not exceed, in total, 10 months of the period mentioned in sub-heading *a*) of n.º 1.
- 5—However, in the assessment of the period mentioned in sub-heading *a*) of do n.º 1 the periods resulting from working displacement namely within a transboundary service rendering framework are taken into account.
- 6—For the purposes of applying the sub-heading *b*) of n.º 1, appeals are assessed by their nature and regularity, considering the level of the minimum wages and allowances before the filing for acquiring a long-term resident status.
- 7—Periods of uninterrupted permanence in national territory under a working visa or a permanence permit, issued according to the stipulations of the preceding legislation are relevant to the assessment of the period foreseen in sub-heading *a*) of n.º 1.

Article 127.o

Public policy and public security

- 1—The status of long-term resident may be refused for public policy or public security reasons, being that it should be considered the seriousness or type of offence to public policy or public security, or the dangers that might come from the permanence of the concerned person in national territory, as well as the length of residence and links to the country.
- 2—The refusal mentioned in the preceding number can not be grounded on economical reasons.

Article 128.º

Competent entity

The granting or refusal of the long-term residence status is a capability of the Director General of SEF, who may delegate.

Article 129.º

Acquiring procedure of a long-term resident status

- 1—The SEF delegation in the residence area of the applicant is competent to receive the application of a long-term residence status granting.
- 2—The application is made along with the documents proving that the third-country national fulfils the conditions mentioned in article 126.º, as well as a valid travelling document or a certified copy of it.
- 3—As soon as possible but within six months the applicant is notified of the decision.
- 4 — Under extraordinary circumstances related to the complexity of the request analysis, the period mentioned in the preceding number may be extended for three more months being that the applicant shall be notified of that extension.
- 5—The absence of a decision within nine months equals the approval of the request.
- 6—If the conditions laid down in article 126.º are fulfilled and the applicant does not represent a threat within the scope of article 127.º the long-term resident status is granted.
- 7—Anyone who applies for a long-term resident status is informed of his/her rights and obligations.
- 8—The long-term resident status has a permanent character upon a renewable title.
- 9—The granting of the long-term resident status to a third-country national holder of a residence permit granted in accordance with article 116.º is reported by SEF to the Member State which granted him/her the long-term residence status for the first time ever.

Article 130.º

Long-term EC residence title

- 1—To long-term residents a long-term EC residence title is issued.
- 2—The long-term EC residence title is valid for five years, it is automatically renewed through an application in the end of the expiry period.
- 3—The long-term EC residence title is issued according the rules and the uniform model of residence title for third-country nationals in force in the European Union being that it must be written in the field «Type of title» the designation «Long-term EC resident».

Article 131.º

Loss of the status

- 1 - Long-term residents lose their resident status in the following cases:
 - a) Fraudulent acquiring of the long-term resident status;
 - b) Adoption of an expulsion measure according to the stipulations of article 136.º;
 - c) Absence from the territory of the European Union for a period of 12 successive months;
 - d) Acquiring in another Member State the long-term resident status;
 - e) Absence from national territory for a period of six successive years.
- 2—Absences from the territory of the European Union for a period higher than 12 successive months justified by specific or exceptional reasons do not imply the loss of status namely when the long-term resident stayed in the country of origin in order to have there a professional or entrepreneurial, or of a cultural or social nature.
- 3 — The absences from national territory for a period higher than 6 successive years justified by specific or exceptional reasons do not imply the loss of status namely

when the long-term resident stayed in the country of origin in order to have there a professional or entrepreneurial, or of a cultural or social nature.

- 4—Every time that the loss of status is due to situations foreseen in sub-headings *c)* and *e)* of n.º 1, the concerned person can recover the long-term resident status through a request if he/she fulfils the conditions foreseen in sub-headings *b)* and *d)* of n.º 1 article 126.º.
- 5—The decision on the request mentioned in the preceding number is pronounced within three months.
- 6—The lapse of the long-term EC residence title does not imply the loss of the long-term resident status.
- 7—The loss of long-term resident status implies the cancelling of the residence permit and the seizure of the long-term EC residence title.
- 8—Cancelling of the residence permit to the long-term resident is a competence of the Minister of Interior who can delegate in the Director General of SEF.
- 9—If the loss of the long-term resident status does not lead to an expulsion the concerned person is granted a residence permit with visa exemption.

Article 132.º

Procedural safeguards

- 1—The refusal decisions on the request for a long-term resident status or loss of the mentioned status are notified to the concerned person indicating the grounds for the decision, the right to take on judicial review and its term.
- 2—The reasons for the refusal of the request for a long-term resident status or loss of the mentioned status are electronically reported to ACIDI, I. P., indicating the grounds for the decision.
- 3—The decision on refusal of the request for the long-term resident status or the decision on the loss of the mentioned status are liable to judicial revision with a suspensive effect before de administrative courts.

Article 133.º

Equal treatment

Beneficiaries from the long-term status benefit from equal treatment before the national citizens under the stipulations of the Constitution and the law, namely for the purposes of:

- a)* Access to a self-employed activity or as a worker if that activity does not imply, not even occasionally, involvement in public authority without prejudice to the application of the special regime granted to citizens from Portuguese speaking countries;
- b)* Access to job and work conditions, including dismissal and salary;
- c)* Education and vocational training including allowances and scholarships according to the applicable legislation;
- d)* Recognition of professional diplomas, certificates and other titles in accordance to law and national pertinent procedures;
- e)* Social security and social protection;
- f)* Tax benefits;
- g)* Health care;
- h)* Access to goods and services and supplying goods and services to the public, as well as obtaining lodging;
- i)* Freedom of association, membership and adhesion to any organisation representing workers or employers or any organisation whose members dedicate to any activities, including the advantages offered by those organisations, without prejudice of the national arrangements on public policy and public security;
- j)* Free Access to all national territory.

CHAPTER VIII

Removal from national territory

SECTION I

General arrangements

Article 134.º

Grounds for removal

1—Without prejudice of the arrangements of the international conventions of which Portugal is part of or is bind to, the expulsion of the foreign citizen happens when:

- a)* Illegally entering or staying in Portuguese territory;
- b)* Attacks on national security or public policy;
- c)* His/her presence or activities in the country are a threat to the interests or dignity of the Portuguese State or its nationals;
- d)* Interfering in an abusive way in the exercise of political participation rights reserved to national citizens;
- e)* Having performed acts that, if were known by the Portuguese authorities would have prevented his/her entry in the country;
- f)* In relation to whom there are strong reasons to believe that he/her has committed serious offences or intends to commit such actions, namely in the European Union territory.

2—The arrangements of the preceding number does not prejudice any criminal liability in which he/her may incur in a foreign country.

3—Refugees benefit from the most advantageous regime resulting from the international law or convention to which the Portuguese State is bind.

Article 135.º

Restrictions to removal

Foreign citizens can not be sent off from the country if:

- a)* Were born in Portuguese territory and reside here;
- b)* Have effective custody of minor children of Portuguese nationality and residing in Portugal;
- c)* Have minor children, nationals from a third-country and residents in Portuguese territory over who have effective parenthood and ensure their livelihood and education;
- d)* Who live in Portugal since less than 10 years old and live here.

Article 136.º

Protection of the long-term resident in Portugal

- 1—The decision on a judicial expulsion of a long-term resident can only be grounded on the fact that he/her represents an actual threat and sufficiently serious to public policy or public security and should not be grounded on economical reasons.
- 2—Before the decision of expulsion of a long-term resident can be made, the following elements are taken into account:
 - a)* The length of residence in the territory;
 - b)* The age of the concerned person;
 - c)* The consequences for that person and for his/her family members;
 - d)* The bonds with the residence country or the absence of bonds with the country of origin.
- 3—The decision on expulsion is liable of judicial review with suspensive effect.
- 4—The long-term resident who has not enough financial resources is given judiciary support according to law.

Article 137.º

Removal of long-term residents in a Member State of the European Union

- 1—The holder of a long-term residence status granted by a Member State of the European Union can be sent off if staying illegally in national territory.
- 2—While the third-country national holder of a residence permit granted under article 116.º has not been given yet the long-term resident in national territory status, the decision on removal can only be taken according to the stipulations of n.º 1 and 2 of article 136.º, after consultations of the Member State which granted him/her the status.
- 3—In case of removal for the territory of the Member State of the European Union which granted him/her the long-term resident status the competent authorities shall be notified of the decision by.
- 4—SEF will take all the measures to effectively execute such a decision and inform the competent authorities of the Member State of the European Union which granted the concerned person the long-term resident status, on the adopted measures to the implementations of the removal decision.

Article 138.º

Volunteer abandonment from national territory

- 1—The foreign citizen who illegally enters or stays in national territory may, in duly grounded cases, not be arrested under the stipulations of article 146.º, but be notified by SEF to voluntarily abandon national territory within the settled period, from 10 to 20 days.
- 2—The foreign citizen to whom it has been cancelled the residence permit is notified by SEF to voluntarily abandon national territory within the settled period, from 10 to 20 days.

- 3—The period mentioned in the preceding numbers can be extended by SEF in duly grounded cases.
- 4—In case of decision of cancellation of the residence permit according to the stipulations of article 85.º, the foreign citizen is notified to immediately abandon national territory under penalty of incurring in the crime of qualified disobedience.
- 5—The observance of the order to immediately abandon national territory implies the use by the foreign citizen of the first travelling mean available, suitable to his/her situation.

Article 139.º

Assistance for voluntary return

- 1—The State may assist the voluntary return of foreign citizens who fulfil the demandable conditions in countries of origin, within the scope of cooperation programs established with international organisations, namely the International Organisation for Migration or non-governmental organisations.
- 2—Foreign citizens benefiting from assistance under the stipulations laid down in the preceding number, when holding a residence permit, return it at the border post when boarding.
- 3—During a period of three years after the abandonment of the country beneficiaries of assistance for voluntary return can only be admitted into national territory if they return the received amounts with interest on deferred payment at the legal rate.
- 4—Arrangements of the preceding number does not prejudice the possibility of the short-term visa issuing, for humanitarian reasons, in accordance to the stipulations laid down in article 68.º.
- 5—Citizens who have benefited from a temporary protection regime are not subject to the demand foreseen in n.º 3.

Article 140.º

Competent entity for removal

- 1—Removal can be determined in accordance to the present law, by a judicial authority or a competent administrative authority.
- 2—Removal is determined by a judicial authority when considered the nature of the accessory penalty or when the foreign citizen subject to the decision has illegally entered or regularly stayed in Portugal.

Article 141.º

Procedural competence

- 1—The Director General of SEF, who may delegate in the service's regional directors, is competent to bring an action of removal and to order the pursuit of records determining, namely, its filing in a court.
- 2—The Director General of SEF is also competent to close the file.

Article 142.º

Enforcement measures

- 1—Within expulsion procedures beside the coercion measures numbered in the Penal Code, with the exception of protective custody, the judge may determine, if there is a suspicion of flight, the following:
 - a) Periodical presentations at SEF;
 - b) The obligation of staying at home using electronic surveillance means according to law;
 - c) Placement of the concerned person in a temporary lodging centre or a matching facility.

2—Competent for the application of measures of enforcement are the courts of primary criminal jurisdiction or the district courts where the foreign citizen has been found.

Article 143.º

Destination country

1—Expulsion can not be made to a country where the foreign citizen may be pursued for the motives that, in accordance to law, justify the granting of the asylum right or where the foreign citizen may suffer torture, inhuman or degrading treatment according to the sense of article 3.º of the European Convention on Human Rights.

2—In order to benefit from the guarantee foreseen in the preceding number the concerned person must call upon the fear of being pursued and provide evidence within the period that has been granted him/her.

3—For the cases foreseen in the preceding number the concerned person is sent off to another country that accepts him/her.

Article 144.º

Term of entry interdiction

The expelled foreign citizen is prohibited of entering national territory for a period no less than five years.

SECTION II

Removal ordered by administrative authority

Article 145.º

Administrative removal

Without prejudice of the application of the readmission regime the removal can only be determined by an administrative authority with grounds of illegal entry or staying in national territory.

Article 146.º

Arrest of a foreign citizen who is in an illegal situation

- 1—The foreign citizen who illegally enters or stays in national territory is arrested by a police authority and, when possible, handed over to SEF with the respective writ, and must be presented within forty eight-hours at the most to the judge of primary criminal jurisdiction under his/her jurisdiction or the district courts in other areas of the country, in order to its validation and application of coercion measures
- 2—If it is determined the detention at a temporary lodging centre or a matching facility SEF is notified in order to further the judicial proceeding aiming at the removal of the foreign citizen from national territory.
- 3—The detention foreseen in the preceding number cannot exceed more than the necessary period to allow the execution of the removal decision, which is of 60 days.
- 4—If it is not determined the detention in a temporary lodging centre or a matching facility SEF is also notified for the purposes mentioned in n.º 2, and the foreign citizen is notified to appear where indicated.
- 5—No procedure is made against a foreign citizen who has illegally entered in national territory and presents a request for asylum to any police authority within forty-eight hours after his/her entrance.
- 6—The foreign citizen who is in the conditions mentioned in the preceding number waits at liberty the decision of his/her request and should be notified by SEF of

his/her rights and obligations in accordance with the arrangements of the law which rules the right to asylum.

7—According to the stipulations of n.º 1 authorities and officers from SEF, Guarda Nacional Republicana, Polícia de Segurança Pública, Polícia Judiciária and Polícia Marítima are competent to make arrests.

Article 147.º

Accompaniment to a border post

- 1—The foreign citizen detained under the stipulations of n.º 1 of article 146.º who, during judicial interrogatory and after being informed on the arrangements of n.º 2 and 3.º, claims that he/she wants to leave national territory can, by determination of the competent judge and if duly provided with documents, be handed over to SEF custody to be accompanied to a border post in the shortest period possible.
- 2—The citizen who declares the will to be accompanied to the border post is forbidden to enter national territory for a period of one year.
- 3—Accompaniment to a border post implies the registering of the citizen at the Schengen Information System and the national register of non-admissible persons for the period of entrance interdiction.

Article 148.º

Proceedings

- 1—During the proceedings the audition of the concerned person is assured and he/she shall have all the defence guarantees.
- 2—The audition mentioned in the preceding number is valid for all purposes as an audition of the concerned person.

3—The responsible for the proceedings must promote all the essential procedures in order to obtain the truth and he/she may refuse, in a grounded order, the request of the person against whom the proceedings were made, when decides as proved the alleged facts.

4—Once the instruction of the listing process the respective report is written in which the responsible makes the description and appreciation of the facts, proposing a resolution he/she finds fit and the process is presented to the competent entity for a decision.

Article 149.º

Removal decision

1—The removal decision is a competence of the Director General of SEF.

2—The removal decision is electronically reported to ACIDI, and to the Consulting Council and notified to the concerned person against whom the proceedings were taken, indicating the grounds, the right to take on judicial review, as well as its register at Schengen Information System and the national register of non-admissible persons.

3—The decision to remove includes:

- a) The grounds;
- b) Legal obligations of the person to be removed;
- c) The interdiction of entry in national territory and its term;
- d) The indication of the country to where the citizen benefiting from the guarantee foreseen in article 143.º should not be send to.

Article 150.º

Judicial review

The decision of removal by the Director General of SEF is liable of judicial review, with devolutive effect before the administrative courts.

SECTION III

Judicial removal

SUBSECTION I

Removal accessory penalty

Article 151.º

Removal accessory penalty

- 1—The removal accessory penalty can be applied to the foreign citizen who does not live in the country condemned for a malicious crime with a penalty for a period higher than 6 months in prison or a fine as an alternative to the prison for a period higher than 6 months.
- 2—The same penalty can be applied to a foreign citizen resident in Portugal, condemned for a malicious crime with a penalty for a period higher than 1 year in prison, however it should be taken into account when the penalty is applied the seriousness of the facts practiced by the defendant, his/her character, the eventual reincidence, the degree of social integration, the special prevention and the period of residence in Portugal.
- 3—Without prejudice of the arrangements of the preceding number, the removal accessory penalty can only be applied to the permanent resident foreign citizen when his/her conduct seriously threatens the public policy or national.
- 4—Once the removal accessory penalty decreed the executive judge shall order the executive order as soon as two thirds of the prison sentenced are served.

5—The executive judge may decide on the anticipation of the execution of the removal accessory penalty, as a substitute for the granting of parole, as soon as he/she decides on the parole presuppositions as fit and if half the prison penalty has been served.

SUBSECTION II

Autonomous measure for judicial removal

Article 152.º

Competent court

- 1—The competent courts to apply the autonomous measure of removal are:
 - a) In the respective jurisdictional areas the primary criminal jurisdiction courts;
 - b) In the remaining areas of the country the district courts.
- 2—Territorial jurisdiction is determined by the place where the foreign citizen lives or the place where he/she is found.

Article 153.º

Removal proceeding

- 1—Any time that SEF has knowledge of a fact that may constitute ground for removal it will organize a procedure for gathering of evidences enabling the decision.
- 2—The removal proceeding starts with the order to suit and should contain, besides the identification of the concerned foreign citizen, all the relevant evidence elements, namely the circumstance of being or not a resident in the country and, being a resident in the country, the period of residence.

3—In case of accusation for the crime of disobedience for not having abandoned the territory, according to the stipulations of n.º 4 of article 138.º, the citizen shall also be judged for this matter.

Article 154.º

Trial

1—Once having received the process, the judge shall schedule the trial that should be in the next five days, ordering a notification of the defendant, of the witnesses listed in records and of SEF represented by the respective regional director.

2—The presence of the defendant at the audition is mandatory.

3—In the notification of the defendant it should be mentioned that if he/she desires so could present a contestation at the trial audience presenting a list of witnesses or any other evidence elements.

4—Notification of SEF represented by the respective regional director seeks the appointment of the official or officials who may give the court the explanations considered relevant for the verdict.

5—For the cases foreseen at sub-heading *f*) of n.º 1 of article 134.º the arrangements of n.º 1 and 2 of article 382.º and articles 385.º and 389.º of the Penal Code apply.

Article 155.º

Adjournment of the audience

1—The judgement can only be adjourned once and up until the tenth day after the first date settled:

- a*) If the defendant asks for a new date in order to prepare his/her defence;
- b*) If the defendant misses the trial;
- c*) If witnesses considered crucial by the prosecution or the defendant miss the trial;

d) If the court considers necessary to find new evidence essential to the truth of the facts and can be made within the period.

2—The arrangements of sub-headings *a)* and *c)* of the preceding number do not apply to cases foreseen at sub-heading *f)* of n.º 1 of article 134.º

Article 156.º

Subsidiary application of the summary process

With the exception of the cases foreseen at sub-heading *f)* of n.º 1 of article 134.º, the arrangements of the Penal Code concerning the summary process trial, duly adapted, are applicable.

Article 157.º

Decision content

1—The judicial verdict contains:

- a)* The grounds for the verdict;
- b)* Legal obligations of the defendant;
- c)* The interdiction of entry into national territory indicating the respective period;
- d)* The indication of the country to which the foreign citizen benefits of the guarantee foreseen in article 143.º

2—The execution of the verdict implies the registering of the expellee at the Schengen Information System and the national register of non-admissible persons for the period of entrance interdiction.

3—The registering at Schengen Information System is notified to the expellee by SEF.

Article 158.º

Appeal

1—An appeal with devolutive effect to the Appeal Court can be made upon the verdict stipulating removal.

2 — The arrangements of the Penal Code on ordinary appeal additionally apply.

SECTION IV

Execution of the decision of removal

Article 159.º

Competence for the execution of the decision

The execution of the decisions of removal is a competence of SEF.

Article 160.º

Observance of the decision

1—The foreign citizen against who a decision of removal was taken should leave national territory under custody of SEF for the execution of the removal decision.

2—The foreign citizen can be granted a period for him/her to leave the country.

3—It can be requested to the competent judge, while the decision of removal isn't executed or while the period mentioned in the preceding number does not expire, that the expellee stay under the following regime:

- a) Placing on a temporary lodging centre or a matching facility;
- b) The obligation of staying at home using electronic surveillance means.
- c) Periodical presentation at SEF or other police authorities.

Article 161.º

Disobedience to the removal decision

- 1—The foreign citizen who does not leave national territory within the term settled is detained and escorted to the border post in order to be removed from national territory.
- 2—If it is not possible to execute the decision of removal within forty eight hours after the detention the fact is reported to the primary jurisdiction judge of the respective jurisdiction area, or the district court in the remaining areas of the country in order to be determined the placing of the foreign citizen on a temporary lodging centre or a matching facility.

Article 162.º

Reporting the removal

The execution of the decision of removal is reported through diplomatic channels to the competent authorities of the destination country of the expellee.

SECTION V

Readmission

Article 163.º

Concept of readmission

1—According to the stipulations of international conventions, all foreign citizens who are illegally staying in the territory of a State, coming directly from other State, may be readmitted by the latter through a request made by the State in territory are staying.

2—Readmission is said active when Portugal is the requester State and passive when Portugal is the solicited State.

Article 164.º

Competence

The acceptance by Portugal of the readmission requests of persons as well as the presentation of requests to other State is a competence of the general- director of SEF, who may delegate.

Article 165.o

Active readmission

1—Every time a foreign citizen who is irregularly staying in Portugal should be readmitted by another State, SEF will formulate the request, following, with the necessary adaptations the arrangements of article 153.º

2—During the proceedings the audition of the foreign citizen to be send again to the required State is guaranteed, and is valid as an audition of the concerned person for all purposes.

3—If the request presented by Portugal is accepted, the competent entity determines the sending back of the foreign citizen to the required State.

4—If the request is refused a removal proceeding is constituted.

5—The author of the readmission request is competent to determine the sending back of the foreign citizen to the required State.

6—The sending back of the foreign citizen to the required State implies the register at the national register of non-admissible persons and at the Schengen Information System, if the required State is a third-country.

Article 166.º

Appeal

The decision to send back a foreign citizen to the required State is subject to appeal, to the Ministry of Interior, within 30 days, and with devolutive effect.

Article 167.º

Entry interdiction

The foreign citizen who has been sent back to another State under in accordance to an international convention is prohibited from entering the country for a period of three years.

Article 168.º

Passive readmission

1—The foreign citizen readmitted into Portuguese territory and who does not benefit from the legally required conditions to stay in the country is liable to a removal measure from national territory as foreseen in this chapter.

2—Third-country national who have been granted a long-term resident status, as well as their family members, are immediately readmitted with no formalities, every time that they have been subject to a removal decision from the Member State where they carried out their right to residence.

3—The obligation of readmission mentioned in the preceding number does not prejudice the possibility of the long-term resident and his/her family members move to a third Member State.

SECTION VI

Mutual recognition of removal decisions

Article 169.^o

Recognition of a removal decision taken against a national from a third-country

1—Decisions on removal taken by the competent administrative authority of a Member State of the European Union or a Party State in the Application Convention against a third-country national who is in national territory are recognised and executed if the removal decision is based upon:

- a)* A serious and existing threat to public policy or national security of the State author of the decision;
- b)* The non-compliance by the concerned third-country national of the regulation related to entering and staying of foreign citizens of the State author of the removal decision.

2—A removal decision taken upon the arrangements of sub-heading *a)* of the preceding number is only recognised if it was taken in case of:

- a)* Conviction of the third-country national by the State author of the removal decision by a infraction liable of prison for a period no less than one year;
- b)* Grounded reasons to believe that the third-country national has committed serious punishable acts or the existence of actual signs that he/she intends to commit such acts in the territory of a Member State of the European Union or a Party State in the Application Convention.

- 3—If the person comprised in the preceding number holds a residence permit issued in national territory the recognition and execution of the removal decision can only be determined by a judicial authority in accordance with the arrangements of articles 152.º to 158.º
- 4—Without prejudice of the arrangements of n.º 2 of article 25.º of the Application Convention every time a person subject to a removal decision mentioned in n.º 1 and 2 holds a residence permit issued by a Member State of the European Union or a Party State in the Application convention, SEF shall consult the competent authorities of that State in order to eventually cancel the residence permit pursuant to the arrangements in force in that State, as well as the State author of the removal decision.
- 5—The removal decision according to the stipulations of n.º 1 and 2.º is only recognised if it is not adjourned or suspended by the author States.
- 6—The stipulation of the present article is applicable without prejudice of the arrangements on the determination of responsibility of Member States of the European Union on the analysis of an asylum request and the readmission agreements with Member States of the European Union.

Article 170.º

Competence

- 1—SEF is competent for the execution of the removal measures mentioned in the preceding article.
- 2—Every time a removal decision taken by a competent authority is executed by a Member State of the European Union or by a Party State in the Application Convention, SEF will provide to the competent entity of the execution State all the necessary documents to prove that the executory nature of the removal measure has a permanent nature.

3—SEF is authorised to keep a data file of a personal nature for the purposes foreseen in the present section without prejudice of the observance of the constitutional and legal rules in the matter of data protection.

4—It is also a SEF competence to cooperate and exchange pertinent information with competent authorities from other Member States of the European Union or Party States in the Application Convention to carry out the recognition and execution of removal decisions in accordance with the arrangements of the preceding article.

Article 171.º

Execution of the removal

1—The decision of removal recognised in accordance to the arrangements of article 169.º will only be executed if the arrangements of article 135.º are observed, after a preceding analysis of the concerned person situation, in order to be assured that neither the Constitution, the pertinent international conventions, nor the law prevent its execution.

2—Any third-country national that illegally stays in national territory and upon whom there is a decision in accordance to the arrangements of article 169.º shall be detained by a police authority and handed over to SEF where he/she will be under custody, along with the respective record, and this citizen will be escorted to the border.

3—The decision on removal execution is liable of judicial review with devolutive effect before the administrative courts.

4—Any foreign citizen over whom impends a decision taken in accordance to the arrangements of n.º 3 of article 169.º is handed over to SEF where he/she will be under custody in order to be escorted to the border and be sent off as soon as possible.

5—Every time that the removal execution isn't possible within forty eight hours after the detention, the third-country national will go before a judge of primary criminal

jurisdiction at the respective jurisdiction area or at the competent district court, for the validation of the detention and eventual coercion measures.

6—Of the order of validation of the detention and bringing into custody of SEF there can be an appeal in accordance to the stipulations of article 158.º

7—After the execution of the removal measure SEF will inform the competent authority of the Member State author of the removal decision.

Article 172.o

Money compensation

Money compensation for the costs of the removal execution of third-country nationals follows the approved criteria by the European Union Council.

SECTION VII

Support to removal by airway during airport transit

Article 173.º

Preference for a non-stop flight

Every time a third-country national is sent off by plane the possibilities for the use of a non-stop flight to the country of destination should be considered.

Article 174.º

Request for airport transit in the territory of a Member State

- 1—If it's not possible the use of a non-stop flight airport transit it can be asked from the competent authorities of other Member State if that does not imply a commutation to another airport in the territory of the Member State required.
- 2—Airport transit request, with or without an escort and related support measures, namely the measures mentioned in n.º 2 of article 177.º, is presented in writing and must be reported to the Member State as soon as possible, never with less than a two days notice.
- 3—The Director General of SEF is competent to request airport transit, and he/she may delegate.
- 4—An airport transit can not occur without the authorisation of the Member State that has been required to authorise, except in cases where there is no answer to the request mentioned in n.º 1 within the terms to which the Member State that has been required to authorise is obliged to, and the transit operation can be made through a mere notification.
- 5—For the purposes of treatment of the request mentioned in n.º 1, the information included in the application form for airport transit annexed to Council Directive n.º 2003/110/EC of November 25 are sent to the Member State that has been required.
- 6—SEF shall take suitable measures to ensure that the airport operation happens as soon as possible, within twenty-four hours at the most.
- 7—The third-country national is immediately readmitted into Portuguese territory if:
 - a) The airport transit permit has been refused or revoked; or
 - b) During the transit the third-country national has entered the Member State required to authorise without a permit; or
 - c) Hasn't been possible to execute the removal measure of a third-country national to another transit country or board the connection flight; or
 - d) The airport transit isn't possible for any other reason.
- 8—Expenses for the readmission of the third-country national are defrayed by SEF.
- 9—Expenses with measures of airport transit support mentioned in n.º 2 of article 177.º, paid by the Member State that has been required are defrayed by SEF.

Article 175.o

Support to airport transit in national territory

- 1—Airport transit may be authorised to the competent authorities of a Member State who are removing a third-country national as occasion may require.
- 2—An airport transit may be refused if:
 - a) The third-country national stands accusation of a penal offence or his/her capture for serving time in prison has been ordered, in accordance to the stipulations of the applicable legislation; or
 - b) Transit through other States or the admission into the destination country is not feasible; or
 - c) The removal measure implies commuting airports in national territory; or
 - d) It is not possible, for practical reasons to render the requested support; or
 - e) The presence of a third-country national in national territory is considered to be a threat to public policy, public security or public health, or to the international relations of the Portuguese State.
- 3—For the case of sub-heading *d)* of the preceding number, the solicitant State is given as soon as possible a date, the most nearer possible date of the required one, in which having fulfilled all the requisites, a support to airport transit can be given.
- 4—Airport transit permits already granted can be revoked is afterwards some facts that, in accordance to n.º 2, become known and justify a transit refusal.
- 5—SEF shall report to the competent authorities of the solicitant Member State without delay the refusal or revocation of the airport transit permit under the stipulations of n.º 2 or the preceding number, or the impossibility of its accomplishment for any other reason, grounding the decision.

Article 176.º

Decision on granting airport transit support

- 1—The decision on authorisation or refusal of airport transit is a competence of the Director General of SEF, who may delegate.
- 2— The decision on authorisation or refusal of airport transit shall be reported to the competent authorities of the solicitant Member State within forty-eight hours, postponable for an equal period in duly justified cases.
- 3—If there isn't any decision within the term settled in the preceding number solicited transit operations may start through a mere notification by the solicitant State.

Article 177.º

Airport transit support measures

- 1—According to the mutual consultations with the solicitant Member State, at the edge of the available means and in harmony to the international applicable rules, all support measures to ensure that the third-country national really left the country are rendered.
- 2—The support measures mentioned in the preceding number are:
 - a) To receive the third-country national inside the aircraft and escort him/her within the airport transit area to the connection flight;
 - b) Render emergency medical assistance to the third-country national and, if necessary, to his/her escort;
 - d) Receive, secure and convey the travelling documents namely in the case of removal measures without an escort;
 - e) In cases of transit without an escort to inform the solicitant Member State of the place and time of departure of the third-country national from national territory;
 - f) To inform the solicitant Member State of any serious incident during the transit of the third-country national.
- 3—No mutual consultation according to the stipulations of n.º 1 to rendering the support measures mentioned in sub-heading *b)* of the preceding number is needed.

- 4—Without prejudice of the third-country national readmission in cases when the transit operation it cannot be ensured, despite the support rendered in harmony with n.º 1 and 2, and after consulting with the solicitant Member State all support measures needed to proceed with the transit operation can be taken within forty-eight hours.
- 5—The solicitant Member State is given all the information on the costs of the rendered services under the stipulations of sub-heading *b*) and *c*) of n.º 2, as well as the quantification criteria of the remaining costs, effectively taken, mentioned in n.º 2.
- 6—Support to the readmission of a third-country national by a solicitant Member State is always given every time it occurs.

Article 178.º

International conventions

- 1—The beginning of transit operations through a mere notification can be subject to international conventions convened with one or more Member States.
- 2 — The international conventions mentioned in the preceding number are notified to the European Commission.

Article 179.º

Central authority

- 1—SEF is the central authority in charge of the reception of requests for airport transit support.
- 2—The Director General of SEF appoints for all pertinent transit airports agents who can be contacted during all transit operation proceedings.

Article 180.º

Escort

- 1—For the purposes of the application of this section, escort shall have the meaning hereunder assigned to it as the persons of the solicitant Member State who accompany the third-country national during airport transit in national territory, including the persons who are in charge of rendering medical assistance and translation.
- 2—As the transit operation unfolds, escort powers confine solely to self-defence.
- 3—If there are no national police agents helping, escorts can react in a reasonable and proportioned way to an immediate and serious risk of the third-country national escape, injure him/her self, injure third persons or cause material damage.
- 4—Escorts are bound to observe at any time, national legislation.
- 5—During airport transit the escort should not be armed and wear a uniform.
- 6—The escort has to show the proper identification, including the transit permit or, when applicable, the notification mentioned in n.º 3 of article 176.º

CHAPTER IX

Penal Arrangements

Article 181.º

Illegal entry, permanence and transit

- 1—It is considered illegal the entry of foreign citizens into Portuguese territory when in violation of the arrangements of articles 6.º, 9.º and 10.º and n.º 1 and 2 of article 32.º
- 2—It is considered illegal the permanence of foreign citizens when it has not been authorised in harmony with the arrangements of the present law or the law that rules the right to asylum as well as when an illegal entry has been registered in accordance with the stipulations of the preceding number.

3—It is considered illegal the transit of foreign citizens in Portuguese territory when the concerned citizens are not granted the permit to enter the destination country.

Article 182.º

Civil and criminal liability of corporate bodies and equivalent

- 1—Corporate bodies and equivalents are liable, in general, for the crimes foreseen in the present law.
- 2—Entities mentioned in n.º 1 answer jointly, according to civil law, for the payment of fines, compensations and other instalments to which they are condemned to pay in result of the offences foreseen in the present law.
- 3—To criminal liability for the crimes foreseen in articles 183.º, 184.º and 185.º adds the civil liability for all expenses inherent to the permanence and removal of foreign citizens involved.

Article 183.º

Action to facilitate illegal immigration

- 1—Whoever favours or facilitates by any means the illegal entry or transit of a foreign citizen in national territory is punishable with a prison penalty up to three years.
- 2—Whoever favours or facilitates by any means the illegal entry or transit of a foreign citizen in national territory with a profit intention is punishable with a prison penalty from 1 up to 4 years.
- 3—If the facts are carried out through transportation or maintenance of the foreign citizens under inhuman or degrading conditions or putting his/her life in danger or causing serious offences to his/her physical integrity or causing death, the perpetrator is punishable with a prison penalty from 2 up to 8 years.
- 4—Any attempt is punishable.

5—Sentences applicable to entities mentioned in n.º 1 of article 182.º are in the form of a fine whose minimum and maximum limits are doubled, or the interdiction of the exercise of the activity from one up to five years.

Article 184.º

Association to facilitate illegal immigration

1—Whoever founds a group, organisation or association whose activity is to practice the crimes foreseen in the preceding article is punishable with a prison penalty from 1 up to 6 years.

2—Whoever is part of those groups, organisations or associations incurs in the same penalty.

3—Whoever leads the groups, organisations or associations mentioned in n.º 1 is punishable with a prison penalty from 2 up to 8 years.

4—The attempt is punishable.

5—The penalties applicable to the mentioned entities in n.º 1 of article 182.º are in the form of a fine whose minimum and maximum limits are doubled, or the interdiction of the exercise of the activity from one up to five years.

Article 185.º

Raising Illegal manpower

1—Whoever, with a profit intention for him/herself or a third person solicits or raises with the purpose of introducing foreign citizens who are not holding a residence permit or a visa allowing the exercise of a professional activity is punishable with a prison penalty of 1 up to 4 years.

2—Whoever, in a repeatedly way, practices the acts foreseen in the preceding number is punishable with a prison penalty from 2 up to 5 years.

3—The attempt is punishable.

Article 186.º

Sham marriages

1—Whoever marries with the sole purpose of favour the granting or earn a visa or a residence permit or defraud the legislation in force on the subject of nationality acquisition is punishable with a prison penalty form 1 up to 4 years.

2—Whoever in a repeated and organised way foments or creates the conditions for the practice of the acts foreseen in the preceding number is punishable with a prison penalty from 2 up to 5 years.

3—The attempt is punishable.

Article 187.º

Violation of the measure of entry interdiction

1—The foreign citizen who enters national territory during the period in which he/she was interdicted to entry is punished with a prison penalty up to 2 years or a fine up until 100 days.

2—In case of conviction the court may accessorially decree, by a duly grounded judicial decision the removal of the foreign citizen, in accordance with the arrangements of article 135.º.

3—Without prejudice of the arrangements of n.º 1, the foreign citizen may be removed from national territory in order to fulfil the remaining entry interdiction period according to the proceeding in which he/she was removed.

Article 188.º

Investigation

- 1—Besides the competent entities, SEF is competent to investigate the crimes foreseen in this chapter as well as others that are related, namely trafficking in human beings.
- 2—The covert actions performed by SEF within the framework of preventing and investigating crimes related to illegal immigration in which criminal associations are involved follow the stipulations of the Law n.º 101/2001, of August 25.

Article 189.º

Loss of objects

- 1—Objects seized by SEF and are declared lost in favour of the State when:
 - a)* Are documents, weapons, ammunition, telecommunication devices, computers or other useful to service;
 - b)* Result from the enforcement of international conventions related to illegal immigration.
- 2—The usefulness of objects mentioned in sub-heading *a)* of the preceding number should be proposed by SEF in the final report of the respective criminal proceedings.
- 3—Objects mentioned in sub-heading *a)* of n.º 1 may be temporarily used by SEF from the moment of its seizure until the declaration of loss or restitution through an order of the Director General of SEF to be conveyed to the authority superseding the proceedings.

Article 190.º

Accessory penalties and coercion measures

As to crimes foreseen in the present law there may be applied accessory penalties of interdiction or suspension of the exercise of public functions foreseen in the Penal Code, as well as coercion measures foreseen in the Penal Code.

Article 191.º

Verdict transmission

The courts shall send SEF as soon as possible, under an electronic format:

- a)* Certificates of condemnatory decisions on crime proceedings against foreign citizens;
- b)* Certificates of decisions on proceedings for crimes of facilitating illegal immigration and raising illegal manpower;
- c)* Certificates of decisions on removal proceedings;
- d)* Certificates of decisions on extradition of foreign citizens.

CHAPTER X

Regulatory offences

Article 192.º

Illegal permanence

1—The permanence of the foreign citizen for a period longer to the authorised on is an regulatory offence punishable with fines as follow:

- a)* From €80 up to €160, if the permanence period is not longer than 30 days;
- b)* From €160 up to €320, if the permanence period is longer than 30 days but does not exceed 90 says;
- c)* From €320 up to €500, if the permanence period is longer than 90 days but does not exceed 180 days;
- d)* From €500 up to €700, is the permanence period is longer than 180 days.

2—The same fine is applied when the infraction foreseen in the preceding number is detected when the citizen is leaving the country.

Article 193.º

Non authorised Access to the international area of the port

1—The access to the international area of the port by an individual non authorised by SEF is an regulatory offence punishable with a fine of €300 up to €900.

2—The Access on board any ship by an individual non authorised by SEF is an regulatory offence punishable with a fine of €500 up to €1000.

Article 194.º

Transportation of a person with non authorised entry in the country

The transportation into Portuguese territory of a foreign citizen who does not hold a valid travelling document or visa by a transport operator or by any person exercising a professional activity is an regulatory offence punishable for each foreign citizen carried from €000 up to €6000, in case of corporate bodies, and of €3000 up to €5000, in case of individuals.

Article 195.o

Lack of stop over visa

Carriers as well as everyone in the exercise of a professional activity carry to a national port or airport foreign citizens not holding a stop over visa when needed are liable to be fined, by each foreign citizen, from €4000 up to €6000, in case of corporate bodies and of €3000 up to €5000, in case of individuals.

Article 196.º

Non-fulfilment of the obligation to data communication

The carrier who, by mistake, has not conveyed data according to the stipulations of articles 42.º and 43.º, or has conveyed incomplete or false data is punishable for each trip in which the passengers data are have not been conveyed or have been incorrectly conveyed with a fine from €4000 up to €6000, in case of corporate bodies and of €3000 up to €5000, in case of individuals.

Article 197.º

Lack of entry declaration

The infraction of the arrangements of n.º 1 of article 14.º is an regulatory offence punishable with a fine from €60 up to €160.

Article 198.º

Exercise of an unauthorised professional activity

1—The exercise of a self-employed Professional activity by a foreign citizen who is not qualified with the proper residence permit, when demanded, is an regulatory offence punishable with a fine from €300 up to €200.

2—Whoever employs a foreign citizen who is not authorised to exercise a working activity according to the stipulations of the present law is liable, for each foreign citizen, to the application of one of the following fines:

- a) From €2000 up to €10 000, if employing one to four;
- b) From €4000 up to €15 000, if employing 5 to 10;

c) From €6000 up to €30 000, if employing 11 to 50;

d) From €10 000 up to €90 000, if employing more than 50.

3—For the practice of the regulatory offences foreseen in the preceding numbers there may be place to apply accessory sanctions foreseen in article 21.º and subsequent of the general regime of regulatory offences.

4—The employer, the user, by force of the service rendering or temporary work contract, as well as the general contractor are jointly liable for the payment of the fines foreseen in the preceding numbers, of the actually received wage credits resulting from work, for the non-fulfilment of the labour law, for the non presentation of the income tax statement subject to deductions for the tax authority and social security, relatively to work rendered by the illegal foreign citizen and for the payment of all charges related to staying and removal of the involved foreign citizens.

Article 200.º

Lack of application for residence permit

The breach to the disposition of paragraph 2, article 24º represents an infraction punishable with a fine from €60 to €120.

Article 201.º

Failing to renovate a residence permit in due time

An application for renovating a temporary residence permit delivered after the time limit established in paragraph 1, article 78º represents an infraction punishable with fine from €75 to €300.

Article 202.º

Non compliance with certain duties

- 1- Non compliance with the duties of communication established in article 86º 78º represents an infraction punishable with fine from €45 to €90.
- 2- Non compliance with the duty established in article 6º represents an infraction punishable with fine from €200 to €400.
- 3- The act of disembarking foreign citizens outside the border posts specifically established for that effect represents an infraction to paragraph 1, article 6º and is punishable with fine from €50000 to €100000.
- 4- Are jointly responsible for paying the fines established in the preceding paragraph the carrier and their representatives in Portuguese territory.

Article 203.º

Lack of communication regarding lodgings

- 1- The disregard for the duty of registering foreign citizens by electronic means, as per paragraph 4, article 15, or the absence of lodging bulletin, in accordance to paragraph 1 or 2 of article 16, represent infractions and are punishable with fines in the following values:
 - a) From €100 to €500, when 1 to 10 lodging bulletins have not been registered;
 - b) From €200 to €900, when 11 to 50 lodging bulletins have not been registered;
 - c) From €400 to €2000, if the bulletins have not been forwarded or more than 51 bulletins have not been registered.
- 2- In case of negligent disregard for the time limit for communicating lodging or

departing of the foreign citizen, the limit for the minimum and maximum fine is reduced to one quarter.

Article 204

Negligence and voluntary payment

- 1- On the illicit actions mentioned in the preceding paragraph, negligence is always punishable.
- 2- In case of negligence, the minimum and maximum amounts for the fines are reduced to half of the total established for each fine.
- 3- In case of voluntary payment, the minimum and maximum amounts for the fines are reduced to half of the total established for each fine.

Article 205

Default on payment of fines

In those cases for which the law allows a prorogation of permanence, such may not be granted if the fine which is charged following proceedings for contraventions established in articles 192, 197, 199 and in paragraphs 1 of article 198 and 2 of article 202 has not been paid.

Article 206

Destination of the fines

The value of the fines charged in the terms of the present Act will be distributed as follows:

- a) 60% to the State;
- b) 40% to SEF.

Article 207

Ability to charge fines

- 1- All fees and supplementary levies established in the present chapter will be charged by SEF's Director General, personally or by legal substitution, without prejudice to specific competences assigned to other entities in what concerns paragraph 7 of article 198.
- 2- SEF keeps an individual registry to accomplish the purposes of the present article.

Article 208

Updating the value of fines

Without prejudice to the maximum limits established in the general framework of infringements, the value of the fines are automatically updated *pro rata* in relation to the increase of the highest minimum income, according the rounding-up rule.

CHAPER XI

Taxes and other levies

Article 209

Applicable framework

- 1- For granting visas at consular posts, fees will be charged the value of which is specified in the chart of consular emoluments.
- 2- Taxes and other levis to be charged for administrative proceedings referred to in the present Act, are determined by the Minister of Internal Affairs.

- 3- For the encumbrance of escorting foreign citizens, whose removal from Portuguese territory is of the carrier's responsibility, as well as for placing passengers who were not admitted in national territory, in temporary lodgings or equivalent premises, within the terms of article 41º, fees will be charged up to the value which will be determined by administrative rule of the Minister of Internal Affairs.
- 4- The amount accruing from taxes collected and other levies to be charged in the terms of paragraphs 2 and 3, represents an income to SEF.

Article 210.º

Fees exemption or reduction

- 1- Without prejudice to the stipulations of the preceding article, SEF's Director General may exceptionally grant an exemption, or a reduction to the fees incurred in for the proceedings established in this Act.
- 2- Are exempt of fees:
 - a) Visas to be granted in the terms of sub-heading a), paragraph 1, article 48, as well as those of articles 57 and 61.
 - b) Visas and permanence prorogation granted to foreign citizens who hold diplomatic, service, official and special passports and equally to those who hold travelling documents issued by international organizations;
 - c) Visas granted to descendents of residence permit holders, in accordance to the determinations on family reunion;
 - d) Visas and residence permits granted to foreign citizens who benefit from student's grants conferred by the Portuguese State;
 - e) Special visas.
- 3- The nationals of Countries with which Portugal has international conventions to that effect, or whose national law gives an equal treatment to Portuguese citizens, also benefit from exemption or reduction of fees.

CHAPTER XII

Final provisions

Article 211.º

Nationality changing

- 1—The Central Register shall inform SEF, always under an electronic form, of any nationality changes registered, relative to individuals residing in national territory.
- 2—The communication foreseen in the preceding number is made within 15 days from the register.

Article 212.º

Foreigners' identification

- 1—On establishing or confirming the identity of foreign citizens, SEF may use the civil identification means foreseen in the law and community regulations applicable to the issuing of identity cards and visas, namely the gathering of face images and finger prints, using whenever possible biometrics and expertise.
- 2—The register of personal data lays down in an information integrated system whose management and responsibility is an incumbency of SEF hereunder named SII/SEF, and obeying to the following features:
 - a) Data gathering for automated treatment within SII/SEF should limit to the strictly necessary for the management control of entry, permanence and exit of foreign citizens, the prevention of an actual danger or the repression of a penal infraction falling into the scope of its tasks and competences;
 - b) The different categories of the gathered data should be differentiated according to the degree of exactness or reliability, and separating the factual data from data including a remark on the facts;

c) SII/SEF is made of personal data and data from juridical goods, integrating information within the tasks the law bestows on:

i) Foreigners, nationals from the member countries of the European Union, stateless persons, when related to their transit control at the land, maritime and air borders, as well as their permanence and activities in national territory;

ii) Identification and whereabouts of foreign citizens or nationals from the Member States of the European Union concerning the suspicion or the practice of facilitating illegal immigration or criminal association for that purpose;

d) The personal data gathered for processing, beside the ones mentioned in the preceding number, and within SII/SEF are:

i) Name, father/mother's name relation, nationality, birth country, birth place, marital status, sex, birth date, death date, Professional situation, diseases that may be dangerous or a threat to public health according to the present law, name of direct relatives, addresses, signature references of individuals or corporate bodies in national territory as well as the number, place and date of issuing and expiry date of documents of identification and travelling;

ii) Judicial decisions that, by force of law are conveyed to SEF;

iii) Participation or evidence of participation in illicit activities as well as data related to physical particular signs, objective and unchangeable, nicknames, the indication that the concerned person is armed, is violent, the reason why the concerned person is marked and the procedure or conduct to adopt accordingly;

iv) In what concerns corporate bodies or equivalent entities, beside the previously mentioned data, are also to be gathered: name, firm or denomination, tax address, address, corporate body number or taxpayer identification number, nature of the business, initial date and ending date of the activity.

3—On preventing the consultation, modification, suppression, addition or communication of data of the SII/SEF by a non authorised way according to the present law and to article 15.º of the Law n.º 67/98, of October 26, on personal data protection, there will be a periodical updating of technical measures to ensure safety:

- a) Of data drives and their transportation in order to prevent its reading, copying, modifying or elimination by anyone or by any non authorised way;
- b) Data insertion in order to prevent the entry as well as any non authorised knowledge, modification or elimination of personal data;
- c) Of the automated data processing systems to prevent any use by non authorised persons through data transmission hardware;
- d) Of Access to data in order to ensure that authorised persons only have access to relevant data within heir legal tasks;
- e) Data transmission in order to ensure that its using be limited to authorised entities;
- f) Of personal data entry in the automated processing systems in order to verify which data were entered, when and whom by.

4—Data can be conveyed within international and community conventions at which Portugal is bound to, as well as within international or national cooperation, to security forces and services and public services within the legal competences of the entity which requires them and only data pertinent to the purpose for which are conveyed.

5—Personal data are preserved only for the period necessary for the purpose which grounded the register at SII/SEF and, according to the mentioned purpose, the register is subject to a necessity verification, 10 years after the last documents issuing to its holder, after which they can be stored in a historic file for 20 years after the issuing of the mentioned documents.

6—The arrangements of the preceding numbers does not prevent the automated information processing for the purposes of statistics or studies, if the persons to which the information concerns cannot be identifiable.

7—The number showing in the identification card mentioned in n.º 1 is also used as identification before the Public Service namely for tax, security, social and health purposes.

8—The conveyance to the competent judiciary entity or other holders of the right to accede of any parts of the electronic workflow of SEF for the purposes foreseen by law is always made under an electronic format.

9—In order to facilitate title issuing procedures the citizen is exempted to present certificates or other documents to prove the data already included in the Public Service information systems, being SEF to obtain them, namely at the tax authority services, work and social security and annex the to the file.

Article 213.º

Expenses

1—Any expenses resulting from the removal and which can not be paid by the foreign citizen or which he/she shouldn't pay for, by force of special regimes foreseen in international conventions nor are paid by the entities mentioned in article 41.º, are paid for by the State.

2—The State can also pay for the expenses resulting from the voluntary exit of the country:

a) The expenses of the family members of the expellee when depend from him/her and when the concerned person cannot pay for the mentioned costs;

b) Of foreign citizens who are lack means of subsistence if it is not possible to obtain the needed support from diplomatic representations of their countries

3—In order to meet the costs resulting from the application of this law SEF budget will b provided for.

Article 214.º

Collaboration duty

- 1—All services and bodies of the Public Service have the duty to certify if the entities with which they celebrate administrative contracts do not receive work from foreign citizens in an illegal situation.
- 2—Services and bodies mentioned above may, with good cause, terminate a contract if, in a date after its granting, the private entities receive work rendered by foreign citizens in an illegal situation.
- 3—Bodies of the Public Service and persons in charge of ships have the duty to report the following situations:
 - a) When the arrest or detainment of a ship is decreed as well as when these measures come to an end;
 - b) When there is an evacuation for health reasons of personnel or passengers of a ship;
 - c) When there is a disappearance of passengers or personnel from a ship;
 - d) When clearance is denied for a ship to leave to port;
 - e) When passengers or personnel of a ship are detained;
 - f) When emergency plans are set off in national ports;
 - g) When personnel or passengers are removed from the ship by the competent authority, namely the Maritime Police (Policía Marítima), and by request of the ship's captain.

Article 215.º

Duty to report

When issuing a title that regularises the foreign citizen in national territory, SEF reports to the tax authority services, work and social security the data needed to the respective inscription if it hasn't yet occurred.

Article 216.º

Regulation

- 1—The regulating diploma of the present law as well as the ordinances foreseen will be approved within 90 days.
- 2—The special legislation foreseen in article 109.º will be approved within 120 days.

Article 217.o

Transitional provisions

- 1—For all legal purposes the holders of working visa, permanence permit, temporary staying visa with an authorisation to the exercise of an activity as worker, the extension of permanence to the exercise of a professional activity and studying visa granted under Decree-Law n.º 244/98, of August 8, with the changes brought in the Law n.º 97/99, of July 26, by the Decree-Law n.º 4/2001, of January 10 and by the Decree-Law n.º 34/2003, of February 25, are considered holders of a residence permit which has to be replaced at its expiry date by residence titles, and is applicable, according to cases, the arrangements related to renewing the temporary residence permit or granting a permanent residence permit.
- 2—For the purposes of the stipulations of sub-heading *a)* of n.º 1 of article 80.º, the period of legal permanence is accounted for in accordance to the titles mentioned in the preceding number.
- 3—Requests for the extension of permanence to the exercise of a Professional activity under article 71.º of the Regulatory Decree n.º 6/2004, of April 26, are changed to residence permit requests to the exercise of a professional activity as worker or self-employed under the present law, with exemption of visa.
- 4 — To foreign citizens who fall into the scope of article 71.o of the Regulatory Decree n.º 6/2004, of April 26the permanence is extender for three months in order to make possible the needed working contract or the proof of a labour relation, by a union, by an association member of the Consulting Council or by the Labour General-Inspection, for the purposes of granting a residence permit in accordance with the preceding number.

- 5—Requests for working visa granting under n.º 2 of article 6.º of the Agreement between the Portuguese Republic and the Federative Republic of Brazil on reciprocal hiring of nationals, of July 11, 2003, are changed into residence authorisation requests, with exemption of visa.
- 6—Until the establishment of the job opportunities quota foreseen in article 59.º, The Employment and Vocational Training Institute or, in the Autonomous Regions, the respective departments, will publish all vacant job offers within 30 days which were not filled by Portuguese nationals, nationals from Member States of the European Union, of the European Economic Space, of a third-country with which the European Community has signed an agreement of free movement or by nationals of third-countries with legal residence in Portugal.
- 7—Residence visa for obtaining a residence permit to exercise a Professional activity as worker may be granted up until the limit of the job offers mentioned in the preceding number, if the remaining legal conditions are met.
- 8—Holders of a residence permit issued in accordance to the legislation previous to the present law must replace the titles they hold for the card foreseen in n.º 1 of article 212.º, according to the stipulations and terms to be published in a regulatory legislation.

Article 218.º

Revoking rule

- 1—The following are revoked:
- a) Article 6.º of Law n.º 34/94, of September 14;
 - b) Law n.º 53/2003, of August 22;
 - c) Decree-Law n.º 244/98, of August 8, with the changes made by the Law n.º 97/99, of July 26, by the Decree-Law n.º 4/2001, of January 10, and by the Decree-Law n.º 34/2003, of February 25.

2—Until a stated revocation, is in force the Regulatory Decree n.º 6/2004, of April 26, as well as the ordinances approved under Decree-Law n.º 244/98, of August 8, with the changes made by Law n.º 97/99, of July 26, by the Decree-Law n.º 4/2001, of January 10, and by the Decree-Law n.º 34/2003, of February 25, in what are compatible with the regime of the present law.

Article 219.º

Autonomous regions

The arrangements of the preceding articles do not affect the competences, in the Autonomous Regions of the Azores and Madeira, of the respective regional bodies and services, and due articulation between the latter and the Republic services and of European Union with the intervention in procedures foreseen in the present law.

Article 220.º

Entry into force

The present Act enters into force on the 30th day after its publication.

Approved in May 10, 2007.

The President of the Republic Assembly, *Jaime Gama*.

Promulgated in June 18.

To be Published.

The President of the Republic, ANÍBAL CAVACO SILVA.

Referendada in June 19, 2007.

The Prime Minister, *José Sócrates Carvalho Pinto de Sousa*.