



Family Reunification in Portugal: the law in practice

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European Commission
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COUNTRY REPORT: PORTUGAL

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Index

Chapter 1. Introduction	5
Chapter 2. Legislation on family reunification and legal position of admitted family members	8
2.1. Third-country nationals, refugees and holders of subsidiary protection	9
2.1.1 Conditions for family reunification	9
2.1.2. Rights and obligations after admission	15
2.1.3 Differences between the legal position of holders of a temporary residence permit and independent or permanent residence permit.	16
2.2 Union citizens and Portuguese citizens	17
2.2.1 Conditions for family reunification	17
2.2.2. Rights and obligations after admission	18
2.2.3 Differences between the legal position of holders of a temporary residence permit and independent or permanent residence permit.	19
2.3. Conclusion	20
Chapter 3. Policy developments and political debate on family reunification and the legal position of admitted family members	22
3.1. Immigration history of Portugal	22
3.2. A decade of developments in family reunification framework in Portugal	23
3.2.1 Third-country Nationals	24
3.2.2. Refugees	27
3.2.3 Member States' and Portuguese nationals	27
3.2.4. Summary of the policy developments	29
3.3. The government definition of Integration: developments of the past decades	29
3.4. Conclusion	31





Chapter 4. Implementation of the right to family reunification: administrative competences and practices	32
4.1. Administrative practices and the practice of the law	32
4.2. The judicial system of the courts and the legal aid system	45
4.3. Conclusion	46
Chapter 5. Case law	47
5.1. Third country nationals	47
5.2. Union Citizens and Portuguese nationals	51
5.3. Conclusion	53
Chapter 6. Impact on family reunification	54
6.1. Third country nationals as Sponsors	59
6.2. European Union citizens as sponsors of third country nationals	61
6.3. Family reunification: data from the Immigrant Citizens Survey	64
6.4. Conclusion	67
Chapter 7. Impact on Integration	68
7.1. Past evaluation of family reunification and its impact on integration	68
7.2. Family reunification and integration: qualitative analysis	69
7.2.1. Integration and family reunification: general public opinion	69
7.2.2. Integration and family reunification: interviews and focus group	70
7.3 Conclusion	72
Chapter 8. Conclusion	73
Chapter 9. Bibliography	78

Chapter 1. Introduction

Portugal is a recent immigration country with positive net migration dating from the mid-1970s. Accordingly the legal framework for immigrants, including the right for family reunification, was only underlined in law after 1981. As will be further developed in this report, over the past fifteen years Portugal has promoted several changes in the politicisation of family reunification that were interlinked with a significant progress in terms of immigrants' integration policies. The policy options developed in Portugal, especially during the past decade, led to the international recognition of Portugal as one of the countries with the best integration policies. Family reunification policies are not an exception, as illustrated by MIPEX III: out of 31 countries analysed Portugal scores in first place in the family reunion ranking as a consequence of (among other aspects) recognising that "living in a family is a starting point for integration in society, even during the recession" and having a "more inclusive definition of the family".¹

The Directive 2003/86/EC on Family reunification of Third Country Nationals living in the European Union was transposed into the national Portuguese law, transposing all recommended aspects, including those that were not compulsory for the Member States. Portuguese law did not adopt any of the possible limitations (option clauses) in the transposition of the Directive since it goes against the Portuguese Constitution and the European Convention of Human Rights. In some cases, Portugal went further than what was recommended, as in the case of no minimum time of residency required and the right to family reunification for other family members (e.g. dependent parents, dependent child over 18 years old). The Portuguese law has foreseen that immigrants may ask family reunification to family members that in fact are already in Portuguese territory.

This report also analyses the practice of the law, highlighting the hurdles and challenges that immigrants might face during the family reunification process in Portugal. The contact with immigrants, NGOs representatives, lawyers and mediators supported the characterisation of other aspects of this same story. The obstacles most often identified for the family members were the difficulties in obtaining a visa in the country of origin (or nearest consulate/embassy, which can imply traveling long distances) after the initial approval; as for sponsors, the toughest challenge was meeting certain requirements, usually the income and/or housing requirement. The stories were also marked as emotionally challenging, particularly when the process involves the family reunification of children and there is a physical separation between the parent(s) and the child(ren). When asked about integration and whether they felt that the family member was integrated, the responses varied as this is a difficult and heterogeneous concept, as understood by the participants. However, the answers were mostly positive, referring to knowledge of the Portuguese language, work, school, friends, etc.

1.1. Methodology

This report was elaborated in accordance with the methodological model adopted by the *Family Reunification – a barrier or facilitator of integration?* project partners. This included, in a first stage, research on the documentation available on the subject, including gathering information on the public debate

¹ Further at MIPEX (2011), available at http://www.mipex.eu/sites/default/files/downloads/migrant_integration_policy_index_mipexiii_2011.pdf





and identifying legislation and policy developments on Family Reunification for the past 10 years. Official data on family reunification processes were also collected and analysed – e.g. visas conceded by the ministry of foreign affairs and stock of family reunification authorisation holders by the border control police. Secondly, it was agreed upon holding interviews with individual immigrants (10) that had contact with the bureaucratic procedure of family reunification – both with immigrants that succeeded or did not succeed and with immigrants that are still under the process. Thirdly, the realization of a focus group with representatives of Immigrant NGOs was also scheduled in order to gather more information on the process of family reunification and on the experience of immigrants and the NGOs. Public institutions (ministry of external affairs, immigrant and border control police, ombudsman and the high commission for immigration and intercultural dialogue) and/or policymakers that are involved in the process of family reunification in Portugal were also analysed throughout activity reports and public statements. Finally, the most relevant national judgments and the claims of both third country nationals and union citizens (including holders of Portuguese nationality) were also analysed.

Ten immigrants were interviewed (see details in Table 1.1.), targeting persons with different profiles (e.g. sponsors of family reunification of parents, children and spouses), nationalities (e.g. Brazilian, Cape Verdean, Chinese, Ukrainian, Portuguese), achievements and challenges in family reunification process (e.g. being successfully granted or not, achieving a positive answer from the border police and then being refused to a visa issue in the Portuguese consulate, procedures in appeal). The immigrants for the interviews were approached by the intercultural mediators (immigrants themselves) of the support office for family reunification of the national immigrant support centres (the Portuguese one-stop-shops²) in Lisbon and Porto.

A focus group was also organised with a total of 10 participants featuring NGOs representatives, lawyers, mediators from public and civil society services and immigrant leaders with experience with family reunification procedures and contact with sponsors or family members of such procedures (see details in Table 1.2.).

² Further at www.oss.inti.acidi.gov.pt

Table 1.1. Profile of the immigrants interviewed for this report

	Nationality of sponsor by time of application	Residence status of sponsor	Gender of sponsor	Category of family member(s)	Nationality of family member	Residence status of family member	Gender of family member	Status of family reunification
P1 ³	Brazilian	Authorisation of residence	Female	1 Child	Brazilian	Authorisation of residence through family reunification	Male	Granted in first application
P2	Double nationality – Portuguese and Cape Verdean	Portuguese citizen	Female	1 Parent	Cape Verdean	Residence card of a family member of Union citizen	female	Refusal “draft” ⁴ based on irregular stay by the relative in Portugal, but granted after allegations and penalties paid.
P3	Chinese	Residency Authorisation	Female	1 Child and Parents	Chinese	TCN (in China)	Female (child and parent) + Male (parent)	Border control police has granted but Consulate decided to revise the process again. DNA request under analysis. Ombudsman has been notified of the situation.
P4	Moldavian (now with Portuguese citizenship as well)	Residency Authorisation	Male	1 Spouse	Ukrainian	Authorisation of residence through family reunification (presently with a residence card of a family member of Union citizen)	Female	Granted in first application.
P5	In the first two applications Sri Lankan. By time of third application, she had acquired Portuguese citizenship	At the beginning of the process Residency Authorization. Portuguese citizenship acquired afterwards.	Female	3 Children	Sri Lanka	Temporary residency	3 male	Border control police has granted but Consulate decided to revise the process again. Now approved.
P6	Portuguese (born in Guinea Bissau)	Portuguese citizen	Male	1 Spouse and 3 Children	Guineans	Residence card of a family member of Union citizen for all expect one of the children who is still in the family reunification process	Female (child and spouse) + Male (2 children)	Border control police has granted but Consulate decided to revise the process (only for one of the children).
P7	Nepalese	At the beginning of the process Residency Authorization. Portuguese citizenship acquired afterwards.	Male	1 Spouse and 2 Children	Nepalese (spouse and 1 child) + 1 child (Portuguese)	Spouse has a temporary residency authorisation; 1 child has Portuguese citizenship; 1 child has a permanent residency authorisation	Female (Spouse and Child) + Male (1 child)	Applications granted.
P8	Portuguese	Nationality	Male	Spouse	Brazilian	Residence card of a family member of Union citizen	Female	Refusal “draft” based on the fact that the sponsor income was coming from Spain – need of proofs of professional residence. After allegations granted.
P9	Portuguese	Nationality	Female	Spouse	Syrian	Temporary visa, family reunification under analysis.	Male	Under analysis.
P10	Portuguese	Nationality	Female	Children	Venezuelan	Residence card of a family member of Union citizen	Female (3 children)	Granted in first application.

³ P = Participant (e.g. P1 = Participant 1)

⁴ A refusal “draft” (free translation from Portuguese expression “Projeto de Indeferimento”) refers to an earlier analyze of the process by the border control police in which a refusal can be notified to the immigrant giving him/her 10 days to provide extra documentation and/or arguments and avoid that this earlier notification become a final decision.





Table 1.2. Profile of participants of the Focus Group

	Full name	Name of organisation	Function / position	Target group(s)	Years of experience of institution with family reunification
P1	Susana Figueirinha	Jesuit Refugee Service	Mediator in service provision	Immigrants	since 1998
P2	Jackilson Ramos Pereira	Moinho da Juventude	Mediator in service provision	Immigrants and their descendants in a neighbourhood of Amadora	since 1987
P3	Timoteo Macedo	Solidariedade Imigrante	Association President	Immigrants	since 2001
P4	Oleg Bochenco	Centro Cultural Moldavo	Association President	Immigrants (starting the work with Eastern European Immigrants)	since 2003
P5	Flora Silva	Olho Vivo	Association President	Immigrants	since 1998
P6	Ana Rita Alho	Casa do Brasil	Administrative Assistant	Brazilian immigrants	since 1998
P7	Nuno Sousa	Espaço Cidadania - Seixal City Hall	Public servant	Immigrants	since 2005
P8	Ana Martins	AMI - Social Action	Director	Vulnerable groups	Information not available
P9	Júlia Cruz	Support Cabinet for Family Reunification - Lisbon National Immigrant Support Centre	Mediator in service provision	Immigrants	since 2004
P10	Lígia Almada	Support Cabinet for Family Reunification - Lisbon National Immigrant Support Centre	Mediator in service provision	Immigrants	since 2004

Chapter 2. Legislation on family reunification and legal position of admitted family members

The legislation on family reunification and the legal position of admitted family members in Portugal is defined in two different pieces of national legislation. The first, the Immigration Act of 2007 (with revision of 2012) outlines the application process for family reunification in the case of third-country nationals, following the transposition guidelines of the EU Directive 2003/86/CE on the Right to family reunification of third-country nationals. This law also applies for refugees and holders of subsidiary protection with respective nuances related to the legal framework for family reunification (e.g. certain requirements do not apply for them - income, housing conditions). This act was revised by the Law 29/2012, published on 9 August, with minor changes on the family reunification right and procedures that will be identified.

The second is Law 37/2006, the law that transposed the Directive 2004/38/CE of the European Parliament and regulates free circulation and residency of UE citizens and their families. The rights and obligations underlined in this legislation are based on the principle of equality and are the same as those of Portuguese citizens. Therefore, in Portugal, there is no need for a separate group specific to the rights and obligations of Portuguese nationals. The only difference that can be determined between the Portuguese nationals and non-Portuguese nationals is in the situations where a child is born to a Portuguese national (mother or father). In such circumstances, the child can automatically be issued a nationality status, while, in the other two cases, nationality recognition is not automatic and requires the installation of a process. This reflects a more positive position for Portuguese nationals, who deal with less bureaucratic matters and less costs.

2.1. Third-country nationals, refugees and holders of subsidiary protection

2.1.1 Conditions for family reunification

The Directive 2003/86/EC on Family reunification of third country nationals living in the European Union was transposed into the national Portuguese law by the Immigrant Law 23/2007 of July 4. Portugal transposed all recommended aspects, including those that were not compulsory for the Member States. Portuguese law did not adopt any of the possible limitations (option clauses) in the transposition of the Directive since it goes against the Portuguese Constitution and the European Convention of Human Rights. In some cases, Portugal went further than what was recommended, for instance by not requiring a minimum time of residency before applying to family reunification.

In the case of refugees and holders of subsidiary protection the law that frames the conditions and procedures to the issuing of the status of asylum, refugee or holder of subsidiary protection (Law no. 27/2008, 30 June) underlines in article 68 the right to the preservation of family unity, stating that the beneficiaries have the right to family reunification of his/her family members under the terms defined in the juridical framework of the immigration act (Law no. 23/2007, 4 July).

Eligibility to family reunification: in Portugal, since 2007 (Law no. 23/2007, 4 July), the holders of a residency permit and of a subsidiary protection or refugees are eligible to apply for family reunification without a minimum time of residency required by law. This results from the acknowledgment that living in family is a recognised right for all immigrants. Family reunification can be requested for family members who live abroad or in the country of residency, whether the bonds were formed prior to or after the entry of the resident into Portugal (Article 98, point 1 and 2). Furthermore, as foreseen in the article 66 of Regulatory Decree no. 84/2007, the family reunification procedure can be asked in the immigration border control police by the sponsor or by the family member that legally entered in the national territory and proves that depends or cohabits with a sponsor who has a residence permit. In other words, the Portuguese legal framework allows the reunification with family members that can be in fact already in Portugal and that, in such cases, the beneficiary him/herself asks for it.

Scope of family reunification: The right to family reunification is safeguarded for the spouse/partner⁵, dependent descendants and dependent ascendants. Portugal goes further by allowing the right to reunification to siblings (minors), as long as they are under the official custody of the sponsor (underlined in point 1(f) of Article 99 of the Law 23/2007). Family reunification for same sex partners is recognized in the national legal framework. Portugal also allows for family reunification of direct first degree ascendants (parents) of the resident or spouse, provided they depend on the applicant. The right to family reunification is excluded for more than one spouse/partner, meaning, polygamist families are not recognized. Regarding children, Portugal recognises the existence of two types of situations: sons or daughters, including adopted, under 18 years old and sons or daughters, including adopted, over 18 years old under the dependency of the family reunification applicant. Reunification of children over the age of 18 was more difficult before 2007. It was revised considering that it was not adequate to the present social reality, and with the transformations associated to the extension of the studies and the tendency towards a later entry into active life (with children depending on their parents for longer).

⁵ Family reunification is allowed in relation to a non-marital partner whether the partner is inside or outside national territory, provided that the relationship is recognised under the law (Regulation Decree N°84/2007, November 5).





In the case of non-accompanied minors that are either refugees or holders of a subsidiary protection, beyond the relatives foreseen above, article 99 of the Law 23/2007 extends the right to family reunification to direct ascendants, legal tutors or any other relative in case of impossibility of localising the direct ascendants.

How long? It is contemplated under Portuguese Law that the family reunification process can have an appreciation period of no more than 6 months (although the length of the procedure is normally between 10 days⁶ and 3 months). Within this framework, the right to live in family should not be inhibited to the immigrant because of other welcoming policies. The analysis of the Member-States capacity to receive should be done previously to the acceptance of the immigrant and not after his/her arrival, with the consequence inhibition of that citizen's right to reunify or live in family. In Portugal, the Immigrant and Borders Service (SEF) has a maximum 6 months internal deadline to examine the application for family reunification, which if that deadline is not respected, according to the law, a tacit approval is verified (Art. 105 Law 23/2007).⁷

For refugees and holders of subsidiary protection, in article 84 it is stated that all procedures (including the right to family reunification) are free of charge and should be taken care urgently both administratively and judicially.

Requirements

The requirements for the application to family reunification in Portugal include: evidence of family relationship, income proof, lodging conditions, title of residence and criminal registry.⁸ It is possible to lose the residency permit issued under family reunification if the usual circumstances leading to cancellation apply.

Family Relationship: In order to prove the family relationship, it is necessary to present a certified evidence of the claimed family relationship; and certified copies of the identification documents of the applicant's relatives. For de facto relationships partners should provide evidence of their relationship namely with certified proofs that they had cohabited together before, of eventual children in common,

⁶As reported by Pascouau and Labayle (2011:102), "in Portugal, the impact is significant as the delay for examining an application for family reunification is only 10 days or so, which is very impressive. The procedure applicable in Portugal should therefore be further analysed in order, on the one hand, to define which elements allow for such a fast track examination and, on the other hand, to see to what extent it should be copied by other member states."

⁷According to Pascouau and Labayle (2012: 63) "this solution, which is applicable in Belgium and Portugal, is by far the most favourable to the applicant. It forces the administration to acknowledge that it did not proceed in due time or in an appropriate manner and therefor takes a position against its own "failure".

⁸Depending on the circumstances, other documents may need to be submitted:

- (a) Proof of incapacity in cases involving dependant incapacitated adult children;
- (b) Certified copy of the Court decision which decreed the adoption, as well as a certified copy of the acknowledgement of the decision by the national authority, where applicable;
- (c) Certified copy of the full birth certificate, evidence of economic dependence and copy of the confirmation of enrolment at an educational institution in Portugal, in cases involving dependant adult children;
- (d) Evidence of economic dependence, in cases involving first degree ascendants;
- (e) Certified copy of the custody decision, as well as a certified copy of the acknowledgement of the decision by the national authority, where applicable, for cases involving minor siblings;
- (f) Written authority of the non-resident parent, certified by a Portuguese consulate, or a copy of the decision granting custody over the minor or the incapacitated child to the resident or his spouse, where applicable;
- (g) Evidence of the non-marital partnership (such as existence of a child, previous periods of cohabitation or the registration of the partnership).

and any other possible means (not specified in the Law) that can demonstrate their relation (article 104, 2, of the 2007 immigration act).

Cape Verde provides an example of a good practice (from the origin country perspective) that fosters the simplification of family reunification. The State of Cape Verde has promoted the establishment of “Balcões da Casa do Cidadão em Portugal”, a set of bureaus where citizens living in Portugal can obtain authenticated copies of various official documents. Cape Verdeans can thus request in Portuguese territory some of the required documents to applying to family reunification, such as birth or marriage certificates, as well as criminal records. Currently ten bureaus in different geographic locations across the country offer this service. The offices are located not only in the Embassy and Consulates but also in immigrants’ organizations and in one Portuguese Citizens’ Shop (One-Stop-Shop for several citizens’ services).⁹

In article 103, 4, of the 2007 immigration act it is also underlined that “whenever a refugee is inhibited to present official documents to prove family relationships, other kind of proofs can be considered to show that the relationships do exist.”

As underlined in article 104 of the 2007 immigration act, if necessary the immigration and border control police can interview the sponsor and his/her relatives and conduct any extra investigations considered to be adequate. Furthermore articles 13 and 67 of the Regulatory Decree n. 84/2007, 5 November, underline that in case of doubt, either by the border control police or by the consulate that issues the visa to the relatives, further elements can be requested, including legal and medical exams to prove family relationships (e.g. DNA tests, age tests). Hence, proof mechanisms – e.g. documentation verification and certificates, of age, of DNA – are always supplemental, when doubts persist, and not mandatory requisites in the family reunification process. It is fundamental to understand that many of those mechanisms of proof – e.g. DNA tests, age tests - are very expensive, which may inhibit or limit the access of some families to reunification.

The permit will be cancelled if the marriage, non-marital partnership or adoption was celebrated solely for the purpose of allowing the person to enter or reside in Portugal. Whenever it is proven that a residence permit was granted on grounds of false or fraudulent declarations, or false or forged documents (Article 85, 1b, 2007 Act), the Immigration and Borders Service (SEF) cancels the title(s). False declarations of parenthood (although being a phenomenon with little social expression according to SEF/EMN, 2012: 2) are punishable in accordance with the general rules regarding document forgery and counterfeiting, which can lead to imprisonment up to three years or a fine. The problems and proofs of fraud are gathered and controlled by SEF (as foreseen in article 108 of the 2007 Act).

SEF also has a significant room for manoeuvre when verifying the validity of marriages and de facto relationships, both in the course of application to resident status and in the later detection of fraudulent cases. SEF holds the statistical information regarding the existence of marriages of convenience. According to its 2010 statistical report, for example, 58 citizens were charged with marriages of convenience; in 2011 77 applications to family reunification applications were rejected on those grounds. This phenomenon is criminalised by the immigration act (Art. 186, Law 23/2007, July 4), though it is not associated

⁹ More information at: http://www.embcv.pt/conteudos_gera_sub.asp?idarea=5&idsub=793





with the right to live in family. Hence, although being fundamental to supervise and investigate cases to which a suspicion of abusing the right arise, at the same time immigrants that intend to reunify with their spouses/partners should not be seen as presumably guilty without any grounds.¹⁰

Marriages of convenience and the submission of false documents by applicants to residence status have not been perceived as significant problems by The Immigration and Borders Service (SEF/EMN, 2012: 21). For instance, in 2011, 77 applications to residence permits were refused on grounds of marriages of convenience. This is a minor figure given the total 18.828 residence permits conceded to allow family reunification during that year. There were 7 other cases which led to cancellation of residence permit after detection of fraud (marriages of convenience and false declarations of parenthood).

Justice statistics, on the other hand, show a decrease of crimes registered concerning marriages of convenience by police authorities. In 2010 45 crimes were registered, while in 2011 only 24 crimes. In 2011 32 defendants/suspects were identified, 17 females and 15 males, reflecting also a decrease in comparison with the 68 defendants/suspects identified in 2010.

Although being a phenomenon with a small dimension, still, according to SEF the various authorities responsible for issuing visas, resident permits and citizenship have reported an increase in these practices, namely linked with the misuse of the right to family reunification, with the purpose of evading the immigration legal framework (SEF/EMN, 2012: 21).

Income: The 2007 immigration act also underlines an income requisite – means of subsistence – for a period of at least 12 months. This requirement does not apply for refugees (as stated in article 101 of the 2007 immigration act).

Sponsors have to provide evidences of sufficient means of subsistence (per each family member). “Means of subsistence” are defined as stable and regular resources that are enough to overcome essential needs of the citizens and her/his family, such as food, housing and health care. The Ordinance No. 1563/2007, 11 December, clarified what can be referred to as means of subsistence. According to this document, the means of subsistence have as a reference the minimum income (in 2008 the minimum income was 426€ and presently it is 485€), being requested that the family reunification sponsor have 100% of that value for his/her own living expenses, plus 50% of that value per each additional adult and 30% of that value per each child under 18 years old. Hence, as an example, a sponsor that applied for family reunification for his/her partner and two children had to prove at least 1018.5€ (gross value) as means of subsistence.

In the following tables three profiles of potential sponsors are presented: the first is applying to reunite with one adult; the second applying to reunification with one adult and one child; and the third attempting

¹⁰ In a study of the Immigration Observatory about transnational marriages in Portugal between Portuguese and Brazilians (Raposo and Togni, 2009: 161) some Brazilian immigrants reported, however, to be the target of some stigmatization and suspicions of convenience marriage by the conservatories – when scheduling the marriage with a Portuguese – or by SEF when asking the resident permit after getting married. The authors discuss the “ambiguous interference” of the State and/or of immigration police as regards the intimacy of immigrants’ private life.

to reunite with one adult and two children. Gross values were converted into net amounts considering the level of taxes and social security contributions of 2012 and then compared to the median net income. The annual median equivalised net income in Portugal were in 2010 was 8.678€ - and thus 723.17€ per month. Table 2.1 shows the required incomes and an estimation of that as a proportion of median equivalised net income (EU-SILC).

Table 2.1. – Required monthly income for family reunification: Ordinance N. 1563/2007

	Value (gross) 14 months *	Value (gross) 12 months **	Value (net) ***	Net value as % of median equivalised net income (EU-SILC)
FR with one adult	727,50	848,75	647,03	89,5
FR with one adult and one child	873,00	1018,5	711,50	98,4
FR with one adult and two children	1018,50	1188,25	804,22	111,2

* According to the Labour Law, employers must pay the annual salary in 14 months.

** Conversion of the previous column into a 12 month basis-

*** Values calculated assuming that the sponsor is married. The level of taxes and social security contributions are that of 2012.

However, in 2009, due to the changing conditions in society, related to the crisis and the vulnerable economic situation of the country, the Portuguese Government considered that disproportionate effects of unemployment and temporary work on immigrants did not justify keeping their families apart. As a result it was approved an Ordinance (No.760/2009) which foresaw that, among others, sponsors requesting family reunification or renewing their relatives titles are temporarily asked to prove lower levels of basic subsistence. This exceptional analysis takes into consideration if the sponsor is in an involuntary unemployment situation that prevent him/her from reaching the minimum means of subsistence underlined in the 2007 Ordinance, reducing the value requested for the sponsor to 50% of the minimum income and to 30% per each relative that aim to reunite. Accordingly, using as a reference the previous example, the sponsor can only have to prove presently a minimum of 679€ of means of subsistence. As reported by Pascouau and Labayle (2011:87), "*Portugal is the only country to have taken into account the effects of the crisis and adapted rules on family reunification accordingly*".

Table 2.2 shows that if the three hypothetical sponsors had fallen into a situation of unemployment the financial thresholds would be considerably lower.





Table 2.2. – Required monthly income for family reunification: Ordinance N. 760/2009:
applicable only if sponsor is involuntarily unemployed.

	Value (gross) 14 months *	Value (gross) 12 months **	Value (net) **	Net value as % of median equivalised net income
FR with one adult	388,00	452,67	345,32	47,8
FR with one adult and one child	533,50	622,42	474,37	65,6
FR with one adult and two children	679,00	792,17	566,96	78,4

* According to the Labour Law, employers must pay the annual salary in 14 months.

** Conversion of the previous column into a 12 month basis

*** Values computed assuming a married individual with one dependent child. The level of taxes and social security contributions are that of 2012.

Currently the documents accepted as proofs of means of subsistence are not defined by the Law. In practice, the most common sources are copies of job contracts and annual income tax receipts. *The Action Plan for Immigrant Integration 2010-2013* aims with its Measure 5, the simplification of the Family Reunification process “by extending the range of documents which immigrants can produce as proof of income.”

As foreseen in Article 67 of the Regulatory Decree no. 84/2007, the family reunification application for ascendants, for children aged between 18 and 25 or for adult children with some incapacity should also include proofs of economic dependence of the sponsor. In the case of dependent children over 18 years, it is required that s/he proves that s/he is single and studying in a Portuguese school or university.

Housing: The sponsor has to prove that s/he has a house with conditions to host the family member that s/he intends to reunite. This requirement does not apply for refugees (as stated in article 101 of the 2007 immigration act).

Residence titles: The residence title required to the sponsor for the family reunification of a relative can be either a valid Residence Permit or a Student Resident Permit. Holders of subsidiary protection or refugee status conceded under the Law no. 27/2008, 30 June – who, just as the other Third-Country nationals acquire under this framework a valid residence permit –, also have the right to family reunification.

Criminal registry: Finally, it is also necessary to present a criminal record certificate from the relevant authority in the relative’s home country and from any country where he resided for more than one year, and the relative’s consent to a criminal record check by SEF, in cases where the relative has resided within national territory for more than one year over the last five years.

The law that frames the conditions and procedures to the issuing of the status of asylum, refugee or holder of subsidiary protection (Law no. 27/2008, 30 June) highlights in article 9 that if there are suspicions that the beneficiary committed a crime against peace or humanity and/or committed an offence with a penalty range with more than three years in his/her home country or in Portugal, his/her status is withheld.

2.1.2. Rights and obligations after admission

The reunified family member acquires a title with the same expiration date as that of the applicant, on the date the residency authorisation is emitted to the family member. An exception (number 5 of Art. 107 Law 23/2007) affects spouses who have been married to the resident for more than 5 years, who are always entitled to acquire an autonomous residency authorisation with a 2 year expiration date.

A third-country national immigrant in Portugal under Family Reunification shares the same rights and obligations with the remaining immigrants in a regular situation. The 2007 immigration act defined a “single permit” which simplified administrative procedures for immigrants and for the first time a special article (83) underlined the rights that all immigrants obtain immediately upon receiving a residence permit: education, work, training or access to other qualifications, health and justice. It is further stated that immigrants have the same rights as natives, namely in respect to social security, fiscal benefits, trade unions affiliations, diplomas recognition (second point of article 83). The law only underlines an exception: “dependent” ascendants of the sponsor (or his/her partner ascendants). Exactly because those family members came do Portugal on the ground of being dependents of the sponsor they cannot work in Portugal.

All reunited family members may also benefit from the support of the integration services provided by the High Commissioner for Immigration and Intercultural Dialogue (ACIDI) through the National or Local Immigrant Support Services (the one-stop-shops) – for general information or for specific support in areas such as: employment, education, health, recognition of qualifications, or family reunification support, etc.

Portugal also promotes in a voluntary base the learning of Portuguese with a specific programme for immigrants called the Programa Português para Todos – PPT (Portuguese Program for All). PPT is managed by ACIDI, as an intermediate body of the Human Potential Operational Program of the National Strategic Reference Framework (NSRF)¹¹, and aims to develop Portuguese language courses and technical language courses addressed to the Portuguese immigrant community living in Portugal, at zero cost to the immigrant population and co-financed by European Social Fund. Students who complete the courses in Portuguese obtain a certificate as relevant for purposes of access to nationality, permanent residence permit and / or status of long-term resident, and consequently accomplish the level A2 of the Common European Framework of Reference (CEFR). Besides, immigrants who complete the courses successfully will therefore be exempted from testing evidence of knowledge of Portuguese. Furthermore, for those immigrants that already speak Portuguese, the PPT programme offers the possibility to acquire additional knowledge of technical Portuguese for employment purposes, with a 25 hours certified technical Portuguese language courses. These courses grant better access and integration in the labour market and generate greater equality of opportunities. Those technical courses focus mainly on four different sectors: Retail, Hospitality Industry, Beauty Care, and Building Construction and Civil Engineering.

The law that frames the status of asylum, refugee or holder of subsidiary protection (Law no. 27/2008, 30 June) further underlines in section II that the beneficiaries of protection receive social support for having means of subsistence (e.g. to food, clothes, transports and other daily expenses) and housing

¹¹The NSRF constitutes the framing for the application of the Community’s policy for economic and social cohesion in Portugal for the 2007-2013 period.





(maintaining together the family unit that is in Portugal). It is also recognised for this group and its family members the right to health assistance in the National Health Service. Beneficiaries have the right to access the education system and/or require the recognition of diplomas and qualifications under the same conditions of nationals. Minors of the sponsor or non-accompanied minors have the right to access to the education system in the same conditions as the citizens to whom Portuguese is not a native language, having the possibility to continue studies when reaching majority. Refugees and holders of subsidiary protection have the right to work after acquiring a temporary residence authorisation, though that implies the withdrawing of the social protection (means of subsistence and housing) they have been benefiting. They also have the right to benefit from programmes and measures of professional training and employment.

2.1.3 Differences between the legal position of holders of a temporary residence permit and of a permanent residence permit.

Depending on the type of title that the sponsor has, the family members who benefit from a family reunification process acquire an authorization of residence with an identical duration to that of the sponsor. For family members of sponsors with a permanent residence permit an authorisation of residence valid for periods of two years is issued. After these two years the family members, providing that the family relationship persists, have the right to receive an independent residence permit. Regarding holders of a temporary residence permit, their relatives acquire a title with an identical duration to that of the sponsor.

Furthermore, as specified in article 107 of the 2007 immigration act, in exceptional situations – e.g. divorce, death of the sponsor, sponsor formally accused of domestic violence, minors that achieve majority – it can be also issued an independent authorisation of residence for the family members even before the two years. Under the Law reform of 2012, further protection was granted to victims of domestic violence perpetrators that are also entitled to an autonomous residency title.¹²

Other exceptional situation foreseen in the 2007 Immigration Act refers to the special article (135) that prevents the removal from national territory of foreign parents that have dependent children residing in Portuguese territory, paying due regard to the safeguard of social and family integration. In other words, this article of the law, slightly revised in 2012 (Law 29/2012), underlines that the entry or residence of the parents (regardless of their nationality and form of entrance, legally or not, in Portugal and as long as they are not threat to national security and public order) of minors residing in Portuguese territory, who can prove that the child is dependent on them (providing subsistence and education) cannot be refused.¹³ As such, the right to be in family can protect parents, who can legalise even their situation in Portugal if they prove to have dependent children or see the suspensive effect of judicial decisions to be expelled from Portugal.

¹²This article was unanimously approved by all parties in Parliament.

¹³In the cases that are foreseen for the application of this special article of the law, foreign citizens have to meet at least one of the following conditions: (a) were born and have residence in Portuguese territory; (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; and (d) who live in Portugal since less than 10 years old and live in the country.

2.2 Union citizens and Portuguese citizens

2.2.1 Conditions for family reunification

The entry and residency of Union Citizens is regulated by the 37/2006 Law (free circulation and residency of UE citizens and their families), which made the national transposition of the Directive 2004/38/CE of the European Parliament. This legal framework applies to EU citizens (including Portuguese nationals) and their family members, nationals of the European Economic Area and Switzerland, their family members and the family members of national citizens, regardless of their nationality. The law does not establish a minimum period after which citizens can apply to reunite with their families. As a consequence, they can apply for a residence permit and for family reunification at the same time.

Scope of family reunification: The potential beneficiaries for family reunification with a Union Citizen are basically the same as for third-country nationals. However, this legal framework is slightly more inclusive for other family members under the dependence of the sponsor. In sum, a EU citizen can reunite with his/her spouse or the de facto partner (provided that the relationship is recognised under the law); with direct descendent(s) under 21 years old (while for third-country nationals is 18) or under dependency of a EU citizen or his/her spouse or partner; the direct ascendant dependant on the applicant or of his/her spouse or partner. The law also extended the possibility to other family members (not specified), no matter their nationality, as long as they prove to be dependent of the sponsor.

Requirements

Any Union citizen has the right to reside in national territory for a period superior to 3 months, as long as s/he meets, among others, the following requirements: a) exercises in Portuguese territory a subordinate or independent professional activity; b); is enrolled in an officially recognised public or private school; or c) is a family member that accompanies or reunifies with a union citizen under the previous lines.

Similar to what has been reported to third-country nationals and refugees, EU citizens also have the right to reunite with family members if they want them to stay more than 3 months. Family members who are not nationals of a member state that accompanies or reunify with a union citizen, have equally the right to reside in national territory for a period longer than 3 months.

Some other requirements are also underlined:

Family Relationship: The EU sponsor has to provide a document proving family relation or partnership. The article 31 of the 37/2006 Law foresees that in case of fraud in attesting family relationships – marriage of convenience, fake de facto relationships – the rights to residence and social benefits coming from the status will be removed.

Income: The EU citizen as a sponsor has to prove sufficient means of subsistence to provide for oneself and family members, as well as some form of health insurance, if such insurance is also required by the member state of origin to Portuguese citizens (reciprocity). Those sufficient means of subsistence cannot be inferior to the level of income which qualifies for State aid. In case of reuniting with family members that are under the dependency of the sponsor, a documental proof of dependency of the EU citizen is also requi-





red. A document issued by the responsible body in the country of origin or a certification that s/he is under the dependency of the EU citizen or that s/he lives in co-habitation, or proof of serious health problems that require the personal assistance to the family member of the Union citizen (if applicable).

Housing: The law is absent concerning the requirement of having a house suited to host family member(s). Although in practice, as will be further analysed in chapter 4, usually SEF ask for at least a proof of address.

Residence titles: The reunification process applicant has to provide a certificate of registry of the EU citizen with who s/he will be reunited. For the family members who are third-country nationals and who stay for a period longer than three months in Portugal, they are required to request the issue of a residency card, in accordance with the approved model by the responsible governmental body. The application for this residency card should be submitted in SEF within 30 days, counting from the three months of the entry into Portugal. A certificate proving the entrance of the request for residency card is issued at the time of the submission of the application.

Criminal registry: Formally the law does not state that the criminal registry is a condition for family reunification. However, as underlined in article 22 of the Law no. 37/2007, the right to free circulation of EU citizens and their family members can be inhibited if public security reasons are undermined. In case of suspicion, SEF can require information related to the criminal records of the applicants to the country of origin of the EU citizen or other state.

2.2.2. Rights and obligations after admission

The rights and obligations of Union citizens residing in Portugal through Family Reunification are mostly the same as the ones for Portuguese nationals and as those previously identified for third-country nationals. Union citizens that reside in national territory and family members of union citizens that have a third-country nationality benefit from equal treatment in relation to the national citizens, without prejudice of admissible restrictions from community law.

Family members of union citizens that enjoy the right of temporary residency or the right of permanent residency in national territory have, independently from their nationality, the right to exercise a subordinate or independent professional activity. Furthermore, the union citizen that ceases to exercise a professional activity can maintain the status of subordinate or independent worker in the case of temporary incapacity to work as a result of illness or accident; a situation of involuntary unemployment duly registered and having signed up in the Labour and Professional Training Institute, as a candidate for employment; or when attending a professional training, as long as there is a relationship between the professional activity and the training at hand (unless the citizen is in a situation of involuntary unemployment).

The right of free movement and residency of union citizens and their family members, regardless of nationality, can only be limited by public order, public security or public health reasons. On the other hand, the right of residency for family members is not affected by temporary absences as long as they do not exceed six consecutive months per year, by longer absences for military purposes, by absences of 12 consecutive months, maximum, for important motives such as pregnancy or childbirth, serious illness,

study or professional training purposes, or deployment for professional motives to another member state or third-country.

Union citizens can benefit as well from the integration programmes and services, such as the PPT programme or the CNAI/CLAI. With regards to the recognition of qualifications, because of the Bologna Process, which was recently implemented in the Portuguese Higher Education sector with the purpose of harmonising the European qualification panorama, it is presently much easier to acquire this recognition.¹⁴ While this service is available for all immigrants and it is not specific to Union Citizens, considering its European service nature, it has already adjusted and harmonized the different regulations across the EU Member States; hence, making this process a simpler one for EU citizens.

2.2.3 Differences between the legal position of holders of a temporary residence permit and independent or permanent residence permit.

The residency card for a third-country family member of a EU Citizen is issued in a maximum of three months after the submission of the application and is valid for 5 years counting from the date of issue, or, for the period of residency previewed for the Union citizen, if less than 5 years. The EU citizen and his/her relatives that have been residing together legally in Portugal for five consecutive years has the right to a permanent residence permit. In sum, the relatives of EU citizens acquire the same residence permit of the sponsor: if the sponsor has a temporary residence permit, family members reunited acquire that same type of title; if the sponsor has a permanent residence permit, his/her relatives acquire that same status.

Death or the departure of a Union citizen from national territory, as well as divorce, the annulment of marriage or the end of a non-marital partnership, do not necessarily indicate the loss of residency rights for family members, regardless of their nationality. In order to stay in the country and/or acquire an independent residence permit, the former-spouse/former-partner only needs to justify his/her permanence in Portugal with a professional activity or a proof that a job search is taking place, have enough means of subsistence and health insurance.

The same applies for children of a deceased or a departed EU citizen from the national territory. They can keep their permit to stay in the country as long as they are frequenting the education system and have a guardian in the national territory.

¹⁴ Being still under the responsibility of the Universities the decision of the recognition of qualifications, the Directorate-general of Higher Education of the Ministry of Education and Science has been mainly disseminating information about the recognition process, including applicable national and European legislation, and collecting data about applications and decisions (further at <http://www.dges.mctes.pt/DGES/pt/Reconhecimento/>). Part of this department is NARIC (further at <http://www.dges.mctes.pt/DGES/pt/Reconhecimento/NARICENIC/>), created in 1986 to facilitate the sharing of relevant and adequate information on this matter. NARIC was responsible for elaborating an electronic guide - "Recognition of Qualifications: A guide for foreigners" -, as a direct consequence of the first PII (measure 45), containing useful and necessary information for welcoming and integrating foreign university students, as well as informing those interested in recognizing their foreign academic titles.





2.3. Conclusion

The differences between the requirements for family reunification, rights and obligations applied to third-country nationals (type 1) and to EU citizens, including Portuguese nationals (type 2), stand out in various areas (see further details in Annexe I).

The first difference relates to the age limit of the descendants of the sponsor eligible to family reunification: 18 years old to third-country nationals and 21 years to EU nationals. The family members eligible for type 1 sponsors are also slightly more open as beyond the partner/spouse, descendants (both minors and dependent adults of the sponsor and the partner/spouse) and dependent ascendants, foreseen to type 2; it also foresees the right to reunite the dependent ascendants of the spouse/partner and other dependent family members (see Table 2.1).

As also underlined in Table 2.1, although Portugal has been acknowledged in several international reports that monitor integration policies¹⁵ as one of the states with the best integration policy investments for immigrants, it does not have integration pre-entry requisites for any immigrant, including for family reunification candidates. This is a consequence of governments underlying so far integration as a process that should be promoted exclusively in the Portuguese territory with implications both for immigrants and for the host society. In other words, in line with what the European Commission defends in its *Common Agenda for Integration*, integration should not be imposed only to immigrants but seen as a process of adaptation and accommodation also for the host society. Within this framework, Portugal has been so far against the definition of integration measures as a pre-requisite (with implications in the countries of origin) for immigration and/or family reunification. Family reunification has been associated to the right to live in family, a right that has never been conditioned by policies or mechanisms that limit the entry of people (e.g. language and integration pre-entry tests).

¹⁵ MIPEX, 2009 United Nations Report on Human Development, Handbook on Integration for policy-makers and practitioners of the European Commission, *World Migration Report 2010 – The Future of Migration: Building Capacities for Change of the International Migration Organization*.

Table 2.1. Requirements to family reunification

Requirements	Third Country nationals	Refugees / holders of subsidiary protection	EU nationals, including Portuguese citizens
Income	Proof of means of subsistence	Not applicable	Proof of means of subsistence
Accommodation	Proof of housing conditions	Not applicable	Absent in the law
Integration ¹⁶	Not defined as a requirement	Not applicable	Not defined as a requirement
Age limits	<ul style="list-style-type: none"> - partner: no age limit underlined in law; - Child: until 18 years and from 18 to 25 years old if dependent of sponsor or of the partner/spouse of the sponsor; disabled descendants are always eligible, regardless of their age. - Parents: if dependent of sponsor (the law does not define an age limit, but in the focus group participants reported that authorities normally use as a reference more than 65 years old) 	No age limits underlined, being foreseen the possibility to non-accompanied minors to reunite other relatives if the ascendants are not traced	<ul style="list-style-type: none"> - partner: no age limit underlined in law; - Child: until 21 years and more than 21 years if dependent of sponsor or of the partner/spouse of the sponsor; disabled descendants are always eligible, regardless of their age. - Parents: if dependent of sponsor (in the law is not defined a age limit) or of the partner/spouse of the sponsor
Other requirements	<ul style="list-style-type: none"> - Family relationship - Criminal registry - Authorization of residence (temporary or permanent) 	<ul style="list-style-type: none"> - Authorization of residence (temporary or permanent) 	<ul style="list-style-type: none"> - Family relationship - Authorization of residence (temporary or permanent)



Other differences can be identified for type 1 (TCN sponsors) and type 2 (Union citizens sponsors). The duration of the residency title attributed to the family members benefiting from family reunification for type 1 is shorter, usually 2 years as opposed to 5 years for type 2, which will need to be renewed before applying for a different title. The difference in duration affects the individual, not only in terms of bureaucratic work, but also in the time and money (the cost for type 2 is 15€ and for type 1 it can range from 36.40€ to 266.50€ euros¹⁷, plus the cost of renewal if applicable) necessary to take care of the situation.

The Residency Card (permit) issued for family members of Union citizens allows for free circulation in the EU, while the Residency Permit issued for family members of TCN circumscribes the holder to the national territory. Also, the requirement for proof of entry in national territory is different for type 1 and type 2. In the first case, it is necessary proof of legal entry in Portugal (visa, or stamp in the passport in the case of Brazilians) while in type 2, no real proof of entrance in Portugal is necessary for EU citizens. In other words, the Portuguese law foresees that immigrants can apply for family reunification both with relatives in the country of origin (Article 98, 1) and/or already living in Portuguese territory (Article 98, 2).

¹⁶Under the Consultation on the right to family reunification of third-country nationals living in the EU - Directive 2003/86/EC (further at http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2012/consulting_0023_en.html), the Portuguese government declared that "Portugal is opposed to the a priori establishment of integration requirements or policies for any immigrant, whether they be a minor or above the age of majority. Integration should always be seen as a two-way process which must accommodate change by both the immigrant and host society, within the limits of the Constitution and the law." (page 2 - http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2012/pdf/0023/famreun/memberstatesnationalgovernments/portugal_en.pdf#zoom=100).

¹⁷According to the Ordinance nº1334-E/2010, of 31 December.



European Union citizens have also a greater level of protection regarding their removal from Portuguese territory, since they can only be removed under imperative grounds of public policy, public security or public health, except if the decision concerns a minor and his/her best interest. In contrast, third-country nationals' removal from national territory is only suspended if they are not a threat to national security and were born and reside in Portugal, if they have custody of a minor child to whom they have effective parenthood (and so ensuring their livelihood and education), or if they have lived in Portugal since less than 10 years old.

Another difference is foreseen between type 1 and type 2 in relation to proofs of family ties. The administrative procedure can ask the sponsor to produce evidence that may confirm the family tie with medical/legal examinations. This type of evidences is, however, only legally established in cases of family reunification between third country nationals, being limited on cases where the sponsor is a national or an EU citizen.

Type 2 also benefits from a more privileged position in regards to access to bank loans and to employment opportunities, since nationals/EU nationals have to be consulted first before job opportunities of employment centres be opened up to the remaining foreign population.

The right to vote is mostly dependent on reciprocity bilateral agreements as opposed to these legislation instruments, where neither type get special access or are privileged over the overall immigrant population in Portugal.

Chapter 3. Policy developments and political debate on family reunification and the legal position of admitted family members

3.1. Immigration history of Portugal

For centuries Portugal has been a country of emigration, mass immigration dating only to the mid-1970s. A combination of structural and situational factors explains the rapid development of immigration into Portugal (and other Southern European countries) during the 1980s and 1990s. First, the strict policy measures in traditional immigration destinies (such as France and West Germany) made it easier for immigrants to enter Southern Europe. The geographic position of these countries even opened the possibility to clandestine arrival (King *et al.* 2000: 8-9). On the other hand, because of South European countries traditional dependence on tourism, the entry of visitors from all parts of the world has been facilitated. Finally, the end of the colonial experience during the 1970s and of the Portuguese dictatorship in 1974 - with concomitant changes in political, economic and social structures - was responsible for the shift in Portuguese migration patterns. Emigration decreased during the 1970s, and the independence of the former African colonies resulted in the arrival of repatriates, asylum seekers and return migrants. Later on in 1986, the entry of Portugal into the European Union also led to an upsurge in immigration flows.

According to Census data from 1960 to 1981 the population that resided in Portugal increased 11% as the foreign population increased 269%. In 1960 the foreign population with legal status represented only 0.3% of the total population residing in Portugal, in 1980 that figure grew to 0.5%, in 1990 to 1.1%, and in

2000 to 2%. The growth observed in the past decades is even more significant if it is considered that from 1981 to 2001 the foreign population became six times bigger than it was, as the native population only increased 5%. The importance of the foreign population doubled from 2000 to 2002 (mainly because of the arrival of Eastern Europeans and Brazilians), representing in 2010 around 4.5% of the total population.

Initially, the immigration population arriving in Portugal was mainly from PALOP and Brazil (1980s and 1990s). Cultural links are mainly associated as the reason for choosing Portugal, particularly in the case of the post-colonial process of PALOP. Later on, in the end of the 1990s, a significant new immigration flow came from Eastern European countries (around 100 thousand – nearly 65 thousand Ukrainians). A new geography of immigration emerged, characterized by immigrant dispersion on a national scale. This major shift increased the complexity of contemporary migration flows to Portugal and created new challenges to the integration policies and in the control of borders. According to SEF's 2010 Activity Report, the foreign nationalities more represented in Portugal are Brazil (26.81%), Ukraine (11.12%), Cape Verde (9.88%), Romania (8.27%) and Angola (5.28%), respectively (SEF2010:19).

The preliminary results of the 2011 Census report that in the past ten years the population grew 1.9%, mainly as a consequence of the net migration (that explains 91% of that growth). This tendency, reinforced over the past ten years, reflects the positive contribution that immigrants are having to the Portuguese demography. Immigrants have been responsible not only for the growth of residents and population in active life, but also for the increase of births. The 2011 Census data highlight that foreigners had 10.7% of the total births that occurred in Portugal in 2010. That value is particularly high if we take in consideration that foreign population only represent 4.5% of the total population in Portugal, reinforcing the pattern of the past decades in which immigrants have higher fecundity rates than the Portuguese and contribute positively to the slowdown of the aging of the population in Portugal.

3.2. A decade of developments in family reunification framework in Portugal

As mentioned in the previous section, large-scale migration to Portugal is a rather recent process. At the end of the 1990s legislation on immigration showed to be unsuited for the changing migratory profile of Portugal. Alongside growing migration, the need for legislative adjustment was increased by the necessity of addressing new challenges brought by the Schengen Agreement. Despite occasional disagreements, immigration and the integration of immigrants is not a topic of major controversy within the Portuguese political system. Furthermore, parties to the right of the political spectrum, which traditionally tend to have tougher positions on migrants, have acknowledged their right to live in a family setting. The legal framework for family reunification was approved with a relative consensus among political parties represented in parliament. For instance, the 2007 Law was approved with the votes of PS and PSD, the two parties with most seats. PCP (Communists) and PEV (Green party) abstained, while CDS (Right) and BE (Post-Communists) voted against.

Looking at the voting records of the articles related with family reunification, a more nuanced picture emerges. Several articles of the Law were approved by four of the voting parties; others were sanctioned by a majority. Among the strongest disagreements (those leading to votes against specific articles by PCP and/or BE) were the scope of family members eligible to reunification with the holder of a student visa, the need to prove housing conditions and income, and the consequences of obtaining family reunifi-





cation through a marriage of convenience. However, in the available parliamentary transcripts the issue was not an object of discussion.

3.2.1 Third-country Nationals

Against this backdrop Decree-Law n. 244/98 established a new framework for the regulation of foreigners in Portugal. This Decree-Law marked the major legislative change since 1993 and was reformed by Law n. 97/99, Decree-Law n. 4/2001, and Decree-Law n. 34/2003. The legal basis set by Decree-Law n. 34/2003 persisted until 2007, when Law 23/2007 was issued. Between 1998 and 2007 the regulatory framework in force increased the variety of titles granted, underlying different requirements and rights. Family reunification was not considered to be a general right for all immigrants, being several titles holders excluded from that possibility.

I. Decree-Law n. 4/2001 foresaw the “right to family reunification” to “family members living outside national territory who have lived with him/her [the sponsor] or who depend on him/her” (art. 56.1). This right was extended, “in justified cases”, to family members already living in Portugal.

In order to apply for family reunification, a Third Country National needed to have “resident” status. Given that various types of permits were foreseen in Decree-Law n. 4/2001, holders of “Autorização de Permanência” were automatically excluded from applying. These “autorizações de permanência” were one year permits renewed until 5 years for equal periods of 1 year (in 2001 126.901 APs were issued, reaching 183.833 in 2004). The holders of these permits were inhibited of several rights, including family reunification, and perceived as temporary immigrants¹⁸. This aspect was criticized as being one of the key downsides of this Act, and would be later addressed by Decree-Law n. 34/2003.

The relatives eligible for family reunification were the resident’s spouse (matrimony was required), dependent children (up to 21 years old) of the resident or his/her spouse’s (adopted children as well), parents of the resident or of his/her spouse, and underage siblings (provided that they were under his/her custody).

Immigration and Borders Service (SEF) was (and still remains) the institution assigned to evaluate family reunification applications. SEF should ask the sponsor for evidences that s/he was able to provide “adequate housing” and “sufficient means of subsistence” (Article 56.4). The sponsor needed to provide documents proving the stated family ties, in addition to income and housing proofs (Regulatory Decree no. 9/2001, 29.2). The annual income tax declaration was used as an income proof. An Ordinance specifying the thresholds for means of subsistence should have been issued, but it wasn’t until 2007. In the meantime SEF assessed the financial situation of the sponsor based on the value of the minimum wage necessary per capita . The Act did not establish a time limit for the evaluation of the process.

According to Article 57.3, the reunited relative was entitled to a residency document with the same validity as that of his/her sponsor. Once the application was approved, SEF should inform the Ministry of Foreign Affairs, which would then issue a residence visa to the family members living abroad. Rejected

¹⁸This was mainly a strategy to answer quickly to the labor demand on those years especially in the construction sector (construction of bridges, subways, railroads, roads, football stadiums related to the EUcup2004 ...).

family reunification requests should be forwarded by SEF to the High Commissioner for Immigration (then ACIME) and to its consulting body (COCAI).

II. In 2003 a Centre-right (PSD-CDS) coalition government issued Decree-Law n. 34/2003. This act brought some critical changes not only to family reunification but to migration policy as a whole. The Law's three guiding principles were stated in its Preamble: "the promotion of regular immigration in conformity with the real possibilities of the country"; "the effective integration of migrants"; and "a firm struggle against irregular immigration". In practical terms, these principles were converted into a stricter legal framework.

For the first time in Portuguese Law, Decree-Law n. 34/2003 established a minimum of one year of regular residence before allowing claims to family reunification. However, the Regulatory Decree stated explicitly (DR 6/2004, art. 45th) that holders of successively renewed one year permits could now apply. This was particularly relevant since holders of APs amounted to 183.833 in 2004 – that is, over 40% of regular immigrants living in Portugal at that time.

Whereas the previous Immigration Act foresaw the possibility of reuniting dependent descendants up to 21 years old, Decree-Law n. 34/2003 lowered the age limit to 18 years old²⁰. Apart from children, the family members eligible for family reunification were the spouse (matrimony was required), the ascendants of the sponsor or his/her spouse's (provided that they depended on the sponsor) and underage siblings (only if under the sponsor's parental custody). Like the previous Act, Decree-Law n. 34/2003 covered the possibility, under exceptional circumstances, of reuniting members of family already living in Portugal and not only those abroad.

The following documents were required for the evaluation of the process: a consular registration certificate; a residence permit; birth or marriage certificates, authenticated by the Portuguese Consulate; a house contract (either sale or rent); the income tax declaration; criminal record from the age of 16 years-old onwards. Unlike the previous Acts, DR 6/2004 stated that, should any doubts about the authenticity of the family bonds persist, SEF might demand further legal and medical exams, opening the door to DNA and age tests. Also for the first time, DR 6/2004 (art. 43.2) specified that a decision should be expressed by SEF within 9 months.

Family members of holders of one year permits (APs) whose applications were successful were then entitled to a short stay visa. Though this type of visa did not allow its holder to work, DR 6/2004 (art. 38.2) foresaw that this rule might be overturned under justified circumstances. Family members of Temporary Residence Permits holders were granted an equivalent permit to that of the sponsor. As to family members of Permanent Residence Permits holders, they were awarded a two-year Residence Permit, acquiring access to an autonomous permit afterwards (DL 34/2003 (58.5)).

III. Law no. 23/2007, approved under a Centre-left government (PS), defines the present immigration legal framework and has already been outlined in chapter 2. This was the first Act on immigration that

¹⁹ The values of the minimum wage were 334.2€ in 2001 and 485€ in 2011 (cit. in PORDATA: <http://pordata.pt/Portugal/Salario+minimo+nacional-74>).

²⁰ Disabled descendants, whatever their age, were still eligible for family reunification.





was the product of a discussion at the Parliament, as opposed to the previous Decree-Laws issued by the Government. This meant not only a wider political discussion but also that a diverse set of organizations (e.g. trade unions, immigrant associations) could express their views during the process of public hearing.

The Law was approved by a majority vote of the two main parties, PS (Centre-left) and PSD (Centre-right). BE (Radical Left) and CDS-PP (Christian Democrats, Right) voted against, while PCP (Communists) and PEV (Green Party) abstained. It should be stressed that the articles on family reunification were more consensual, with all parties voting in favour with the exception of CDS (which abstained) in the most relevant articles that underline the right to family.

This Law not only transposed the EU Directive 2003/86/CE in all its aspects in the most favourable form possible in respect to the right to family life, but by going beyond it in some aspects. As such, Portugal was considered by MIPEX III to have the most beneficial policies on Family reunification across the 31 countries subjected to the comparative analysis²¹.

In general terms, the law synthesised the nine former categories of permits comprehended in the previous legal framework into a single type, preventing the existence of parallel statuses and the inequality in the access to certain rights, including the right to family reunification. Furthermore this new Immigration Act of 2007 defined important alterations and revisions based on the recognition that:

- all immigrants have the right to family reunification from the moment that they are holders of a residency authorisation (a minimum period of residency ceased to be required for the applicant to file a family reunification request – Art. 98 Law 23/2007, July 4);
- the “adult children, in the dependency of the couple or of one of the spouses”, as long as they are single and studying in a Portuguese school, became eligible for family reunification (Art. 99 Law 23/2007, July 4);
- partners of de facto unions gained recognition of the right for family reunification;
- it became possible for the spouses/partners to hold a professional activity (Art. 99 and 100 Law 23/2007, July 4).

The immediate impact of the 2007 immigration act in what family reunification is concerned might be estimated with the results of the Immigrant Citizens Survey (ICS, 2012). Among the surveyed immigrants in Portugal that requested family reunification for his/her spouse or partner, 59% have done it in the last 5 years. The same source also reports that although only 35% of the surveyed immigrants that have children applied for reunite with them, 65% of those asked for it in the past five years.

IV. A revision of some of the articles of the previous act was approved by the Parliament in **2012** (Law no. 29/2012, 9 August), under the Centre-Right (PSD-CDS) coalition government in power. The main change when it comes to family reunification is observed in article 64 that potential increase the discretion by the consulates in the granting of visas, after the Immigration and Border control Police approves the family reunification application (the implications of this change will be further analyse in chapter 4). A positive change relates to former partners of convicted aggressors that are now exempted of the two-year ti-

²¹ For more information see MIPEX’s website: <http://www.mipex.eu/family-reunion>.

meframe before applying to an autonomous residence title. Since the Regulatory Decree has not been issued as of yet it is not possible to assess any more changes at the administrative level.

Law no. 29/2012 was approved with a majority of votes by PSD, PS and CDS-PP. Left parties (PCP, BE and PEV) voted against. The Law reforms the precedent Act (Law no. 23/2007), keeping untouched most of the Family Reunification framework. The most substantial modification concerns Article no. 64, which in its present formulation semantically diminishes the obligation of MNE to issue the visa after the approval by SEF. This change was approved by PSD, PS, CDS and PCP, with the abstention of BE and PEV. Other important change is brought by point 4 of Article 107 which defines that a victim of domestic violence is automatically entitled to a permit autonomous from the aggressor, regardless of the time of residence in Portugal. This article was unanimously approved.

3.2.2. Refugees

Traditionally Portugal has not been a host country for asylum-seekers. From 2001 to 2011, an annual average of 174 applications to refugee status was filled. In 2011, 27 individuals were granted refugee status, while 38 received residence permits based on humanitarian reasons. 67 refugee statuses and 49 humanitarian residence permits were renewed. Regarding the prospects of family reunification for refugees, Decree-Law 15/98 defined that asylum granting was extensive to the partner and minor children. Alternatively these family members are also eligible for an extraordinary residence permit, being exempted from the general requisites. No additional requirements are defined, except those that generally exclude applicants from benefitting of refugee-status²². From 2007 onwards, refugees are entitled to family reunification in the terms provided by Law 23/2007. However refugees are exempted from presenting proofs of income and housing conditions.

3.2.3 Member States' and Portuguese nationals

Under the principle of free movement of workers within the EU, citizens of Member States are granted a special status for entering and staying in Portugal. After Portugal joined the former European Economic Community in 1986, various Acts have defined this framework: Decree-Law n. 267/87, Decree-Law n. 60/93, Decree-Law n. 250/98 and Law n. 37/2006.

Decree-Law n. 250/98 expressly states in its first article that family members of Portuguese and other Member State citizens were entitled to equal treatment concerning entry visas and residence permits. Prior to 1998, the entry into Portuguese territory of TCN family members of Portuguese citizens was regulated by the general foreigners Law. Decree-Law n. 59/93 mentioned that in the evaluation of applications to visas, authorities should take into consideration the "facilitation of family reunification", without specifying the nationality of the sponsor. Decree-Law n. 60/93, issued in the same day as the former, set the provisions applicable to TCN family members of Member States citizens, with the exception of Portuguese nationals. TCN family members of European (non-Portuguese nationals) citizens faced less barriers to their entry in Portugal when compared to TCN relatives of Portuguese. What is more, the

²² Article 3rd excludes from asylum those who have 1) committed a) acts against Portuguese sovereignty, b) war crimes, crimes against peace and humanity, c) common law crimes punishable with a prison sentence over 3 years, d) acts against the ends and principles of the United Nations, as well as 2) those who might endanger security and public order.





scope of family members eligible to reunite with European (non-Portuguese) citizens was broader. The revision of Decree-Law n. 60/93 by Decree-Law n. 250/98, which put TCN family members of Portuguese citizens must thus be seen as an “upgrade” when compared to the previous framework.

Under Decree-Law n. 250/98, the issuance of residence permits to family members depended on the occupational profile of the sponsor. Paid workers, entrepreneurs and pensioners who retired while living in Portugal could bring in: a) spouses, b) descendants up to 21 years old (dependent or not), c) dependent descendants regardless of age, d) ascendants (of the sponsor or his/her spouse’s) and e) any other family members, as long as dependent on him/her or living with him/her in the country of origin (opening the door to *de facto* unions).

As to students who presented a proof of enrolment in a learning institution, they could bring in their spouse and children up to 21 years old.

The sponsors who did not fit any of the above situations (retirees enjoying a pension from other Member State, for instance) were required to have a health insurance plan and enough resources²³ to support their family members. These included the spouse, dependent descendants and dependent ascendants.

Having fulfilled these conditions, family members, whatever their nationality, were entitled to a residence document equivalent to that of a citizen of a Member State, with a validity of 5 years. After that period, renovation occurs every 10 years.

The rules now in force are underpinned by Law 37/2006, which transposes into National Law Directive n. 2004/38/CE and has already been outlined in chapter 2. Comparatively to the previous framework, there are some changes which lead to a less nuanced framework. The eligibility of family members no longer varies with the occupation of the sponsor. *De facto* partners, for instance, are eligible in all circumstances. Also, health insurance is no longer a requisite for non-workers, as long as Portuguese citizens are exempted from presenting it in the Member State of origin of the citizen.

²³ The amount of available resources needed to exceed the level leading to the attribution of social assistance benefits.

3.2.4. Summary of the main policy developments



	Policy Type	Detail of policy regarding family reunification	Number of legal foreign residents *	Increase as % of previous year
1998	New general framework for EU citizens	Family reunification with Portuguese sponsors encompassed within the European Union Citizens framework	178.137	1,6
	New general framework for TCN	One year remaining of right to residence required for TCNs wanting to apply.		
1999			191.143	7,3
2000			207.587	8,6
2001	New framework for TCN	Distinction between permits: "permanence permit" and "residence permit", with the holders of the former being excluded to apply family reunification.	223.997	7,9
2002			238.929	6,7
2003	New framework for TCN	"Permanence permit" holders allowed to apply. Minimum of 1 year of stay now required. Reunited family members of "permanence permit" holders inhibited from working.	249.995	4,6
2004			263.322	5,3
2005			274.631	4,3
2006	New Citizenship Law	More open access to citizenship.	332.137	20,9
	New Framework for EU citizens	Transposition of directive Directive 2004/38/EC on the right to move and reside freely. Unified scope of eligible family members, in opposition to former regime.		
2007	New framework for TCN	Only one type of residence permit –no longer parallel systems among TCN.	401.612	20,9
2008			436.020	8,6
2009	Income	Reduction of threshold of required income for unemployed immigrants	451.742	3,6
2010			443.055	-1,9
2011			436.822	-1,4
2012	New law for TCN	Family reunification provisions fundamentally unchanged. However, possible increase of discretion for consular authorities after the approval of the application.		

* Source: SEF. While too rough and clearly insufficient, this is the only statistic available for the whole period.

3.3. The government definition of Integration: developments of the past decades

The migratory experience determined Portuguese political options and how "integration" has been shaped and operationalized through the years. There has been a constant in the discourses of politicians talking about immigrant integration: the rights claimed for Portuguese emigrants living abroad are the same rights that should always be advocated for immigrants residing in Portugal.



In 1996, recognising the importance to clarify the integration policy for immigrants, the centre-left government in power decided to create the position of the High Commissioner for Immigration and Ethnic Minorities (ACIME), nominated by the Prime-Minister, arguing that the new migration experience of Portugal required new integration measures towards immigrant families. From a political position, created in 1996, in 2007 it became a public institute for immigrant integration with the official name High Commission for Immigration and Intercultural Dialogue (ACIDI). The philosophy underlined in Portugal since 1996 is to view integration as a holistic and transversal arena, interlinking the different ministries concerned. In other words, immigration is not merely seen as a matter of labour market needs or of security. As was written in the Law-Decree no.3-A/1996, the High Commissioner received the mission of “*promoting the integration of immigrants in an inter-ministerial strategy, keeping in mind that the presence of immigrants represents enrichment to the Portuguese society.*”

In 2002, under a centre-right wing government, the high commissioner cabinet was converted into a High Commission, under the direct dependency of the Prime-Minister, reinforcing the powers and intervention arenas of ACIME (Law-Decree no. 251/2002, 22 November). Hence Portugal became one of the few countries that set up a centralised body in charge of immigrants’ integration. The legal framework of 2002 underlined the importance of the service provision to immigrants with the creation of specialised support centres in cooperation with local institutions (created in 2004 with the official name of national and local support centres – the One-Stop-Shop approach²⁴). The concept of integration was slightly converted – although the law underlined that the immigrants’ cultural identity linked to the country of origin should be respected, the ‘integration’ was considered to be achieved if immigrants “*accept the Portuguese language, the laws and moral and cultural rights of the Portuguese Nation*” (point b) of article 2). It was also emphasized that ACIME mission was “*to contribute that all citizens legally residing in Portugal have equal dignity and opportunities*” (point e) of article 2).

With a centre-left government in power again after 2005, several other changes were introduced in the legal framework for immigrants’ integration. In 2007 ACIME became a public institute with administrative autonomy (Law-Decree no. 167/2007, 3rd May), aggregating several other services that worked for integration and targets immigrants and cultural diverse groups, and was renamed as High Commission for Immigration and Intercultural Dialogue (ACIDI), reflecting the government priority with the dialogue with all stakeholders. Furthermore this change reflected the recognition (national and international) of the importance of this service to immigrants, reinforcing its powers and intervention. It is also relevant to consider that since 2007, ACIDI attributions are not only integrating immigrants and ethnic minorities in Portugal but also “hosting” them. In a humanistic approach, it was further reinforced in public discourse the positive impacts that immigrants have to Portuguese society and it is underlined the public recognition that immigrants are needed for the country.

²⁴ In the Law-Decree n. 27/2005, 4th February, it was defined the legal framework for the functioning of the National and Local Immigrant Support Centres, the Portuguese One-Stop-Shop approach. This Law-Decree also reinforced the partnership principle of the integration policy – the public administration working for the integration of immigrants with collaboration protocols established with civil society organizations, namely immigrant associations –; and the principle of immigrants participating in the formulation of integration policies and integration service provision – namely with the presence of cultural mediators (most of them immigrant themselves) to narrowing the gap between public administration services and immigrant citizens. Further at Oliveira *et al.* (2009).

The intercultural model advocated by the Portuguese integration policy became particularly operational in 2007 not only with the change of the High Commission name, but also with the definition and implementation of the first action *Plan for the Integration of Immigrants*, based on a holistic approach. The Plan results of a process of broad consultation with Immigrant Associations and other stakeholders. This plan under the coordination of ACIDI, involving in the first edition (2007-2009) 13 different ministries and in the second edition (2010-2013) 14 ministries, defined several measures, which sets out the objectives and the commitments of the Government in welcoming and integrating immigrants.

Over the past decade the Portuguese integration policy developments have responded to the European Commission guidelines on the duality of integration – as a process in which both the host society and immigrants take the leading role²⁵. This duality was also postulated by the third Portuguese High Commissioner for Immigration²⁶: “(...) *integration as a synonym of the greatest, closest harmonious interrelationship between newcomers (immigrants) and the indigenous population, in a dynamic, progressive and balanced process (...). It involves an effort on both parts (immigrants and indigenous population) to adapt to each other.*” (Marques, 2005: 77).

3.4. Conclusion

In the context of global migration, the role of Portugal as a host country is comparatively recent. Despite this fact, the Portuguese approach to the integration of migrants has not been completely static. On the contrary, the evolution of the Portuguese migratory profile has led to changes in the responses provided by different governments. The major developments in family reunification were the product of legislative changes in the regulation of immigration. Family reunification as a subject in its own right has been mostly absent from political debate. However, we can go further beyond the analysis of general political and institutional discourses, and assess how the Law affects the structures of inducements and constraints faced by migrants who aspire to reunite with their family members.

In this regard, we can state that the Law currently in force (Law no. 57/2007) is more generous towards family reunification of third country nationals than previous legal texts. Some of the major obstacles resulting from previous legislation were addressed. For instance, no minimum period of staying in the country is required as opposed to what happened in the 2003 Act. Also, a time limit for the evaluation of each application was set, preventing the immigrant and border control police from taking longer than six months. After this period, the application is tacitly approved.

Concerning the family reunification of Portuguese and other Member States' citizens the framework has been more stable. Nonetheless it should be stressed that since 1998 the rules defining the reunification of family members of EU citizens are explicitly applied to family members of Portuguese citizens as well.

²⁵ As stated in a Commission communication: “(...) *it is essential to create a welcoming society and recognised that integration is a two-way process involving adaptation on the part of both the immigrant and of the host society.(...) Successful integration policies need to (...) rely heavily on partnership between migrants and the host society. (...) While integration is primarily the role of Member States, governments should share this responsibility with civil society notably at the local level where integration measures must be implemented.*” (COM (2000), 757: 19-20).

²⁶ The third High Commissioner governed from 2005 till 2008.





Chapter 4. Implementation of the right to family reunification: administrative competences and practices

4.1. Administrative practices and the practice of the law

As further analysed in chapter 2, the legal frameworks that apply to third-country nationals, refugees, holders of subsidiary protection, Union citizens and Portuguese nationals, clarifies the requirements to the pursue of their right to family reunification. The practice of the law might emphasize, however, certain challenges or additional requests of the Portuguese authorities to applicants achieve the means of proof of certain of the requirements underlined. This chapter intends to highlight, on one hand, how are the administrative practices of the legal framework of family reunification (e.g. who are the institutions involved and how they articulate with each other) and, on the other hand, report some findings (collected throughout interviews with immigrants, focus group and case laws) related to difficulties and absences generated within the practice of the law.

Family reunification procedures in practice: Institutions, competences and discretion

Two public administrative institutions have competences in the decision making of the family reunification procedure: (1) the immigrant and border control police (**SEF**) – where the sponsor or the family member should initiate the process – and (2) the ministry of foreign affairs (**MNE**) through its diplomatic missions or consulates – so family members that are in the country of origin can formalise the visa issuing after approval decision by SEF. Being more precise, when the application is approved, SEF sends the approval decision to the applicant within 8 days, and advises the applicant that the relative should contact the diplomatic mission or consular authority in their area of residence within 90 days, to formally apply for the issue of a residence visa. If the relative is already in Portugal s/he will be issued a residence permit.

The practice of law has been highlighting, nonetheless, that these two institutions have not always been properly articulated or even, in some cases, generating different (if not contradictory) decisions that affect the right to family reunification for some applicants. The two main difficulties that have been reported related to these two institutions are: (a) discretion in the time taken to analyse the processes; and (b) change of decision by MNE after the family reunification approval by SEF.

Although the duration of the family reunification processes are in general considered to be very reasonable in terms of established deadlines, the necessity for a specific maximum deadline for the attribution of visas to the reunified family members (competence of Portuguese diplomatic missions or consulates), which only happens after the reunification approval decision (competence of SEF/Ministry of Internal Affairs) appears to be necessary. The occasional incongruence of these two moments of the procedure – first analysis by border control police and second analysis by the consulates – is the major problem described by immigrants interviewed, debated in the focus group and highlighted in the Portuguese case laws analysed. Immigrants complain about MNE apathy in providing the visa after the process is accepted formally by SEF, and/or some consulates revise the decision asking for extra documentation or proofs of family relationship when the relatives go to ask for the visas.



An example is provided by this a 31 year old Chinese citizen who applied to reunite with her daughter in February 2011, with the family reunification being process approved by SEF, but then the Shanghai consulate refused to issue the visa:

"My daughter was born in Portugal [in 2003, being 8 years old as of May 2012] and I have documents confirming it. But I could not offer her the best conditions at that time, and I sent her to China so my mother could raise her. Now I have my own business and can provide my daughter what she needs. I initiated the process two years ago and it has already been approved by SEF. But in Shanghai [at the Portuguese consulate] they say they cannot issue the visa to my daughter, they argue that they have doubts... But what do they doubt? The officials say they cannot prove that my daughter is the child whose picture is in the file and ask me for pictures of me with her. But I have not seen her since 2003 and I own no photos with her. She's 8 years old now; it's obvious that she has grown up now!"

The woman is very anxious with this situation: *"I can't sleep, this is terrible... I cry a lot now, because I miss my daughter so much! I don't understand what type of doubts they can have. And my son also asks for his sister, he cannot understand what's happening... I'm afraid she will not recognize me; my husband goes there and she misses him, but she won't miss me because I have never met her after she left Portugal"*

In her assessment of the process, *"in Portugal [with SEF] it was really easy and also with the Office for Family Reunification in the ACIDI's One-Stop-Shop"*. The problem lies with the Consulate in Shanghai: *"I volunteered myself to take a DNA test to prove that she is my daughter; but the consulate won't give me an answer"*

The interviewee does not conform herself to this outcome: *"I presented a complaint to the Ombudsman and now I'm waiting..."*

As underlined before, the legal framework foresees, that in case of doubt, either by SEF or by the consulate that issues the visa to the relatives, further elements can be requested. Nevertheless, it is exactly this possibility foreseen in the Portuguese law – ask extra elements in case of doubts - that have been used by some of the consulates to revise or give further analyse to the approval decision of SEF, with the argument that the relatives are in front of them and some suspicions can be raised (e.g. age reported versus apparent age, doubts in family relationship).

In August 2012 (Law 29/2012) a new version of the 2007 immigration act was approved in the Portuguese Parliament. The family reunification general procedure and requirements did not change. The article 64, concerning the emission of residence visas for family reunification was, nevertheless, rewritten with two apparent short nuances: the visa should be "facilitated" (instead of "immediately issued") to immigrants that already got a "positive deliberation" (instead of "approval decision") from SEF. Although this new version of the law is still pending for the regulatory decree and, as such, it is not possible to verify the consequences in practice of these two nuances of the article, apparently the foreign affair ministry and its consulates gained power. Being more precise it seems from this rewriting that SEF's decision is no longer the final decision maker of the process but just a deliberation that can be revised in the consulates, and again no deadline is defined for the consulates to provide an answer to the immigrants or to consummate the visa issuing.

Two other public institutions can be also involved in the family reunification procedures: (3) the **Ombudsman** and (4) the High Commission for Immigration and Intercultural Dialogue (**ACIDI**). All citi-



zens, regardless of their nationality or residence (whether or not they have a legal situation in Portugal), have the right to present complaints to the Ombudsman (direct and free of charge) concerning illegal or unfair actions or omissions by public authorities. The Ombudsman can be involved in any moment of the family reunification procedure if the immigrant shares allegations related to any practice or feeling of injustice that his/her might be target. On that ground the Ombudsman can ask for extra details of the process and procedures to SEF or MNE. The claims of the Ombudsman do not have a binding effect in the procedures; however, in case the immigrant complaints for a court of law, those claims can be used as a recommendation to the juridical analysis of case.

In 2007, out of 921 complaints, 18% were about rights of foreigners (decreasing from the 31% verified in the previous year), out of which 33 complaints were about family reunification processes (in the previous year were 52 complains), the second most important motive for foreigners complaint to the Ombudsman. The decrease in the proportion of complaints about the rights of foreigners, including the reduction of complaints on family reunification procedures, reflected the change in the applicable law – immigration act of 2007 – and its implementation (Ombudsman, 2007: 732, 743).

According to the same source, in 2010 there were 259 complaints to the Ombudsman related with the legal framework for foreigners, being most of these complaints (213) related to delay in procedures (Ombudsman, 2010: 72). In 2009, 34% of the cases related to foreigner' rights complaints were about the delay in the decision of visa requests necessary in order to enable a family to be reunite and/or *“of the right of citizens with a valid residence authorisation to be reunite in Portugal with family members located outside Portugal, with whom they have lived in another country, that they depend upon or with which they cohabit”* (Ombudsman, 2009: 62). About 65% (91) and 34% (48) out of those complaints related to delays in granting the necessary visas for family members to reunite target the Consular Section of the Portuguese Embassy in Bissau and New Delhi, respectively, which motivated the intervention of the Visa Service Department of the Ministry of Foreign Affairs. After its intervention MNE concluded that the delays were mainly being caused, as a general rule, by suspicious of falsification of documents and the existence of doubts concerning family relations accordingly, *“while recognising that the reasonable decision deadlines had been exceeded, the Ministry of Foreign Affairs invoked reasons of safety in terms of entry into the Schengen Area and the increased risk of illegal immigration in order to justify the need to confirm birth certificates and records.”* As such, the Ombudsman deliberated that these grounds were reasonable (Ombudsman, 2009: 63).

In 2011, however, it was reported an increase of complaints by substantive reasons (contrasting with the previous year of complains by delay of procedures), being one of those growing reasons the no concession of visas to family members of Portuguese naturalized citizens that were asking family reunification (Ombudsman, 2011: 84). The increase in the number of naturalizations in the past years²⁷ also generated the necessity to revise some of the immigrants' complaints related to family reunification procedures because the sponsors, as nationals, were framed by a different legal framework. The other more numerous cases of complaints reported on family reunification procedures relates to delays in issuing family titles or in the analysis of immigrants allegations.

²⁷As a consequence of the 2006 citizenship law change, acknowledged by MIPEX 2011 as being more favorable – Portugal was rated in the first position out of 31 countries.

The above mentioned difficulties related to conflicts between immigrants and the institutions that are responsible for the decision of family reunification processes have been reported in several annual reports of the Portuguese Ombudsman to the Parliament. In the 2007 Report, the Ombudsman mentioned the difficulties related to the collaboration between Portuguese institutions, especially with consulates, stating that although is observed “a good collaboration between SEF and ACIDI, the difficulties of communication with certain consulates made, sometimes, needed the valuable collaboration of the centralized services of the Foreign Affairs Ministry.” (2007: 748).

One of the main troubles affecting family members abroad is the need to request a visa from Portuguese Consulates. This may be even a bigger problem for citizens of States where Portugal has no diplomatic representation. That happened to a 61 year old woman from Sri Lanka who applied to reunite with her 3 sons, at different times: “We have no Portuguese Embassy in Sri Lanka, so we have to go all the time to India. In India it is very difficult to obtain a visa. Here they [SEF] gave me the approval but in India it was a big problem, so my son had to go there for 5 times...” Even though the woman met all requirements and that family reunification was approved by SEF, the Embassy[s consular section] in India would not issue the necessary visa for entering into Portugal. Asked what exactly the problems were, she argued that “it’s the people working there, Indians, they are the ones making all these problems”.

Aiming to guarantee a better articulation among Portuguese public institutions that are in Portuguese territory and abroad (embassies, diplomatic missions and consulates) and the authorities of the host country, namely in the field of immigration, the ministry of internal affairs started to have *liaison officers*²⁸ in 1994, answering also to the guidelines of European Commission. In 2001 SEF, as part of the internal affairs ministry, regulated for the first time the *liaison officials for immigration* as a professional position under its own structure. These officials proposed by internal affairs ministry, but nominated by foreign affairs ministry, have the function of promoting the cooperation between institutions, regulate the migratory flow to Portugal (e.g. aiming to prevent irregular migration and human trafficking), and “promote a more speedier process in the issuing of visas according to the Portuguese legislation.”²⁹ It is specifically under this last objective that it should be discussed the role that these officials might have in the speed of visa issuing of family members after the approval by SEF of family reunification processes in Portugal. These officials, in cooperation with several countries of origin, also play a role in the identification of false declarations of parenthood and/or situations of misuse of the right to family reunification (SEF/EMN, 2012: 16).

²⁸ Immigration liaison officer: a representative of a Member State posted abroad by the immigration service in order to establish and maintain contacts with the authorities of the host country with a view to contributing to the prevention of illegal immigration and combating this phenomenon (further at http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/l14511_en.htm)

²⁹ Further at <http://www.dgai.mai.gov.pt/?area=102&mid=104&sid=105>.





Participants in the focus group stressed the access to some Portuguese diplomatic and consular services as a general problem. Timóteo Macedo, President of Solidariedade Imigrante, a Civil Society Organization that works for immigrants, argued that “*corruption exists in the access to Portuguese embassies; in New Deli and Luanda for instance (...) cliques of organized crime often surround some of our embassies and do not allow family members to go in without paying a bribery.*” One of the strategies used to solve these problems has been the settlement of the above mentioned liaison officers of SEF. As reported in the focus group, these officials have been very important to the family reunification procedures in certain Embassies. The example given was the case of Guinea Bissau. Timóteo Macedo acknowledged the importance of these officers, admitting that they contribute to “*combating corruption and local mafias*”, but he added that the challenge persists.

The table below summarises the countries where SEF has had *liaison officials for immigration* since 2006. The countries of origin in where is reported more cases of incongruence between SEF earlier approval and consulates refusal of visa issuing (China and India) are not listed as having liaison officials for immigration. In contrast, countries where some problems were reported before – Ukraine and Senegal/ Guinea-Bissau - have already these officials. As reported in the 2011 SEF activity report (2011:67) the officials in Cape Verde and Guinea-Bissau had contributed also for the competences reinforcement of local authorities (migration services, consulates and air companies) in the areas of border control and documental analyse.

Table 4.1. SEF’ liaison officials for immigration by host country from 2006 to 2011

Year	Host countries
2006	Senegal/Guinea-Bissau, Angola, Russia, Brazil, Romania and Cape Verde
2007	Senegal/Guinea-Bissau, Angola, Russia, Brazil, Romania, Cape Verde and S. Tomé and Príncipe
2008	Brazil, Cape Verde, Senegal/Guinea-Bissau, Angola, Russia and Ukraine
2009	Angola, Brazil, Cape Verde, S. Tomé and Príncipe, Guinea-Bissau, Mozambique, Senegal, Russia and Ukraine
2010	Angola, Brazil, Cape Verde, S. Tomé and Príncipe, Guinea-Bissau, Mozambique, Senegal, Russia and Ukraine
2011	Angola, Brazil, Cape Verde, Guinea-Bissau, Senegal, Russia and Ukraine

Also to guarantee a better articulation between Portuguese institutions that has the mission to manage or integrate immigration in a whole-of-government approach and more transparency in public administration, since 2001, SEF has to communicate to ACIDI the refusal of titles issuing or expulsion of immigrants from the territory. Hence, under point 5 of article 106 of the Law no. 23/2007 (with minor changes in the 2012 version of the law) it is defined that SEF has to notify ACIDI whenever there is a refusal of family reunification request, specifying the motives. These notifications have only to be done for third-country nationals.

This articulation with SEF is fundamental keeping in mind that ACIDI is the Portuguese public institute with the mission of welcoming and integrating immigrants and of promoting intercultural dialogue. As such, several services and measures are developed by ACIDI to guarantee a better reinforcement of right

and obligations of immigrants in Portugal to achieve their better integration, including the consolidation of immigrants' right to be with their families.³⁰

Under the administrative practice of the implementation of the right to family reunification, ACIDI also plays a role. Since 2004, aiming at having a public administration with greater proximity to immigrants, ACIDI manages the National Immigrant Support Centres that gather various public services indispensable to a full life in Portugal - e.g. Immigration and Borders Service, the Working Conditions Authority, Central Registry Office, Social Security, Health and Education - within the same building. Since the creation of the CNAIs, ACIDI has promoted various specialised support offices complementary to these services, where intercultural mediators trained by ACIDI provide a service of cultural proximity in 12 different languages and dialects. Among these support offices, the *Support Office for Family Reunification* (GARF) offers information on the entire family reunification process, namely the necessary documents, legal timeframes, previous arrangements, indications on how immigrants can certify and translate the documents. In case of refusal of family reunification requests, GARF also supports immigrants preparing their juridical allegations both to present to SEF or consulates, and support immigrants to present complaints to the Ombudsman or explain how can be open a process of judicial review in the Portuguese justice system. Hence, GARF fosters a tight articulation with the Portuguese Consulates, SEF and the Direction of Visa and Circulation of People Services (DSVCP of the Ministry of Foreign Affairs). In 2011, this ACIDI office provided 11,944 service-assistances, representing a 10.3% increase in the number of services in comparison to the previous year.



The practice of the law: how rules and requirements to family reunification are implemented in practice?

As clarified in detail in chapter 2, four main requirements are underlined in the Portuguese legal framework to family reunification: (1) proofs of family relationship; (2) means of subsistence and proofs of economic dependence for certain family members; (3) housing conditions; and (4) criminal registry. As also reported before, these requirements are not a requisite for all groups: refugees and holders of subsidiary protection have to answer to fewer requisites than the EU citizens (including Portuguese citizens) or the third-country nationals. The fieldwork developed under this project allowed understanding how rules and few of these requirements to family reunification are implemented in practice, highlighting some challenges and difficulties that might arise in the procedures.

The sample of third country nationals surveyed in Portugal (1,259) under the Immigrants Citizens Survey reported that the most frequent problems in family reunification procedures is obtaining documents (32%), the too much power of the authorities to "do whatever they wanted" (28%) and meeting the requirements (20%) (ICS, 2012:57). The second problem is undoubtedly related to the challenges mentioned above about how the administrative procedure is articulated and implemented between SEF and MNE.

The analysis of SEF notifications received in ACIDI, from April 2008 to July 2011, also allows to have a sampling understanding on the main grounds that have been justifying the refusal of family reunification

³⁰ ACIDI has regularly promoted (since 2004) the publication of an information guide available in three languages - Portuguese, English and Russian - with useful information organised in the form of frequently asked questions and answers regarding the rights and obligations of immigrants in Portugal in a variety of fronts, integrating a specific chapter on family reunification - digital edition available in http://www.acidi.gov.pt/_cf/3651.



to third country nationals. As the table below highlights the most frequent requirements that become the justification to SEF refuse the immigrants claims to reunite with family members relate to the sponsor income (e.g. means of subsistence, proofs of economic dependence, housing conditions).

Table 4.2. SEF' notifications on refusal of family reunification requests to ACIDI, under point 5 of article 106 of the Immigration Act, between April 2008 and July 2011³¹

Country of origin of family member	Total	Missing information	Irregular entrance or staying	Income	Accommodation	National security	Unproved dependence of descendants	Unproved dependence of ascendants	Unproved family ties	Several requirements (not specified)
Brazil	82	27	6	29	0	0	4	1	10	11
Cape Verde	202	88	0	64	8	0	7	7	2	39
China	147	48	8	60	4	0	13	26	6	14
Guinea Bissau	126	47	0	47	5	1	4	5	10	23
India	133	34	0	53	5	0	5	5	0	42
Moldova	70	23	3	40	1	0	2	3	4	2
Pakistan	38	17	1	14	1	0	1	0	2	4
S. Tomé and Príncipe	19	9	0	4	0	1	0	1	2	4
Senegal	14	6	0	7	0	0	1	0	2	0
Ukraine	48	14	1	25	2	1	2	1	0	2
Other and unknown	132	69	10	125	11	1	6	3	7	118
Total	1011	341	22	414	35	3	39	50	35	246

Source: ACIDI

Though the information shared on these notifications varies over time and also from one SEF office to another, ACIDI has analysed a considerable amount of data offering a comprehensive picture of the reasons behind rejected applications. We analysed a two years sample of over 1,000 cases from this source most of them previously coded by ACIDI personnel, but some coded or double-checked to the purpose of this report. The output was Table 4.2 which presents the most common motives behind refusal tabulated with the nationality of the family member. SEF may offer different arguments for a refusal, for instance, lack of income and unproven dependency status of the family member vis-à-vis the sponsor. For that reason, the sum of cases per nationality may be lower than the total number of motives invoked. It should also be stated that SEF deals with each family member as a single different case. Thus applications are not aggregated by sponsor. This is due to the possibility of permitting the reunification of some family members (for instance, minor children) while rejecting others (such as non-dependent ascendants).

³¹ In this table only notifications sent by SEF to ACIDI are analyzed. It should be acknowledged some missing cases that might not be notified by SEF and/or not received by ACIDI. Furthermore, keeping in mind that by law MNE does not have to report refusals in visa issuing to family members that are under family reunification procedures, this table does not considered the consulates refusal decisions or their grounds to refusal.

Some specificity should be also highlighted related to how rules and requirements to family reunification are implemented in practice:

Proofs of family relationship: In order to validate family ties in the administrative procedure for family reunification, the 2007 act foresees the possibility of Portuguese authorities using means of civil identification to confirm the identity of foreign citizens, particularly in gathering facial images, fingerprints, biometry and/or medical-legal examinations. The medical-legal and forensic examinations are only required in case of any doubt evidence of parenthood relationship. Those examinations, if required, must be taken place in the Forensic Medicine Institute of Portugal or, exceptionally, in contracted entities or other entities indicated by the institute. The charges related to these examinations are paid by the immigrant, the rates being defined in Ordinance 175/2011, of April 28 (SEF/EMN, 2012: 7). As underlined in chapter 2, this possibility comprises only third country nationals, as EU citizens and nationals are sheltered by the Protection of Personal Data Act that prevents the processing of such examinations as an evidence to grant the right of residence.

Several different difficulties have been identified during this research related to the practice of the law of the requirement to prove family relationships. In cases when the parents are divorced and minors are in the process of reuniting with one of the parents, an authorisation of the other parent and his/her custody transfer is also requested.



As highlighted in the focus group the parental authorisation and/or custody transfer has been problematic in some cases of family reunification, especially in families that were abandoned by one parent, not knowing where he/she is.

Flora Silva, President of Olho Vivo NGO, stated that “*there are several situations, especially affecting women, in which the father’s location is simply unknown. By requesting that the father (or mother) consents the coming of the child, we impose a difficult situation to the family. . . In such cases, we advise the sponsor to regulate the question of parental custody in a Portuguese court, which, of course, quickly becomes very stressful...*”.

Ana Rita, from Casa do Brasil (a Brazilian Association), stated an additional concern: “*Lately we’ve been confronted with several cases of domestic violence... Cases in which family reunification has already taken place, with the woman staying captive of her dependent status. A woman may want to escape but she can’t because her partner holds custody of the children. We are aware of cases in which the courts seem to be completely insensitive to these problems, cases of condemned aggressors to whom the court concede the custody of the children, putting the woman at a very delicate situation. The possibility of breaking their relationships should be granted to immigrant women.*”

In the SEF notifications to ACIDI it was identified that the grounds for refusal of family reunification related to this problem was an absence of prove of custody holder when only one of the parents is in Portugal and/or is not clear the situation of the other parent or his/her decision related to coming of the child to Portugal.



In some cases, problems related to custody arise with children already in Portugal. Take the case of this 35 year old woman from Brazil whose son was brought to Portugal at the age of 1. The process took about six years to come to a positive end, because the woman was unable to prove that she was the legal custodian of the child:

"The most difficult part was the process at the court. I needed to have the agreement of the father [of the child] but he was missing... The court had to confirm that I was allowed to legalize my child [via family reunification]. Managing the paperwork from Brazil was also difficult. They would send me the documents, which would only be valid for six months and I would have to start it all over again".

The process brought some costs to her personal life *"I lost days at work; it was all very tiresome... Because of all that lost days I had to work at weekends and I ended up being an absent mother. But it had to be".*

The whole process was described as *"stressing, very stressing... It's so tiresome, you know, taking the kid from one place to another, having to work until late in the night."* Reunification was not only a matter of legalizing her son's position within Portuguese society but also a way to be in equal circumstances with Portuguese parents: *"[Before the process was over] I could not get some family benefits from the State because he was irregular".*

Other family reunification procedures were also refused on the ground of false parenthood declarations or false prove of descendants being minors. SEF reported three typical situations that normally are identified in such cases where are doubts regarding the validity of the supporting documents or of the reliability of the family tie: (a) submission of birth registrations made ten years after the actual date of birth; (b) physical appearance indicating that the citizen and his/her child are close in age; and (c) parents that allege their Islamic religion to have children with the same age, born of different mothers (SEF/EMN, 2012: 10). Because there is a lack of a specific framework that penalises this type of crime, an increasing fraudulent infringement has been reported. There is also a greater difficulty in taking evidence in documents obtained in countries with higher fragilities in the organisation of Public Administration (SEF/EMN, 2012: 21). These false declarations of parenthood have been mainly identified in procedures that involve Guinea-Bissau nationals (SEF/EMN, 2012: 20).

Although the law, since 2007, has foreseen the family reunification for de facto partners, some challenges have been also identified in the administrative practice of the law related to this. In the 2010 Portuguese Ombudsman Report it is addressed a complaint related to a refused family reunification process of a de facto relationship. An immigrant made a complaint to the Ombudsman regarding the SEF refusal in granting the family reunification arguing that the marriage of the sponsor was only formally dissolved by divorce later on and, as such, it was not possible to consider "the applicant [living] under conditions similar to that of marriage for more than two years" (Ombudsman, 2010: 76). However, as argued by the Ombudsman, nothing in the law states that for two persons have a de facto relationship for a minimum of two years have to be already divorced or the previous marriage dissolved. As a consequence, the Ombudsman suggested the revision of the decision illegally taken by SEF and recommended that these revised criteria should be applied in future cases, being this position endorsed by SEF.

Some cases of misuse of the right to family reunification by family relationships established with the sole purpose of allowing a certain citizen to enter or reside in Portugal also have been identified by SEF as

one of the reasons for authorities to be strict with the analyse of this requirement (SEF/EMN, 2012:11). The identification of “marriages of convenience”, for example, underlined in both legal frameworks that frame the family reunification to third country nationals (article 108 and criminal provision underlined in article 186 of the 2007 immigration act) and to European Union citizens (article 31 of the Law no.37/2006), justify the cancelation of the residence title of the immigrants. The establishment of the marriage of convenience as a priority investigation crime was also underlined within the guidelines of criminal policy for 2009-2011 biennium (Act 38/2009, July 20). These frameworks have been justifying some preventive instruments (articulated with consulates, to verify documentation of marriages celebrated abroad, and the institute of registration and notary affairs that celebrate marriages in Portugal³²) and investigations, namely based on house visits and interviews with sponsors and family members.

SEF further reports several types of signs of fraud related to marriages of convenience: (a) the spouses do not speak a language that is understood between both of them and/or use systematically interpreters in acts related to the marriage; (b) the spouses give signs that are unfamiliar with each other and/or do not know each other data; (c) absence of any type of contact between spouses either in Portuguese territory or in different countries; (d) marriage with pre-nuptial agreements, such as separation of marital property; (e) they do not live together after marriage; (f) change address shortly after obtaining a residence card; (g) difficulty in reporting consistent facts of the relationship; (h) significant differences in the age of the spouses; (i) marriages celebrated after the initiation of an expulsion procedure or after refusal of residence permits; (j) marriages with indigents, prostitutes or persons with mental disabilities; (l) absence of any cultural or social sharing between spouses; (m) marriages in which the nationalities of the spouses match the risk profile to marriage of convenience (SEF/EMN, 2012:11-12).

In sum, in cases of suspicions of false family relationship in the application for family reunification, the burden of proof rests with the interested parties who have to prove the alleged facts. In case of marriages of convenience only the competent authorities hold the burden of proof and, as such, had to demonstrate the fraudulent motivation of regularization of a certain person in Portugal for the celebration of the marriage. Hence, authorities involved in the administrative process (SEF and MNE)³³ also have the right to determining the need of obtaining other forms of evidence to complement the procedure (e.g. interviews with the sponsor and family members, request for additional documents, inspections, investigations).³⁴ Immigrants have the right to appeal administrative or judicial decisions related to alleged practices of false family relationships.

Income and means of subsistence: As foreseen in Article 67 of the Regulatory Decree no. 84/2007, the family reunification application for ascendants, for children with age between 18 and 25 or for adult children with some incapacity should also include proofs of **economic dependence** of the sponsor. In practice these proofs can be money transference receipts in a regular base (e.g. remittances), and other

³²The Institute of Registration and Notary Affairs also play a role in detecting marriages of convenience, as whenever they celebrate a marriage and/or process the applications for granting Portuguese citizenship and identify any indication of crime, a communication is made to Public Prosecution which starts an investigation with the assistance of SEF and the Judicial Police (SEF/EMN, 2012: 14).

³³As foreseen in article 104 of the 2007 Immigration Act, Article 13 of the Regulatory Decree 84/2007 and articles 124 to 190 of the Code of Criminal Procedure.

³⁴If false declarations of parenthood are proven, the crime is punishable with imprisonment up to three years. Marriages of convenience are punishable with imprisonment of 1 to 4 years, if is the first time or an attempt, but on a repeated practice the law foresees punish with imprisonment from 2 to 5 years.





complementary proofs. In case of dependent ascendants, if they are in the country of origin, they also have to provide a declaration stating that they do not have any other income from the country of origin beyond the remittances they receive from the sponsor or a declaration with low income coming from the retirement; if they are already in Portugal they have to appear in the annual taxes declaration as being part of the household of the sponsor having low or zero income.³⁵

There may also be challenges ahead of Portuguese and European citizens trying to reunite with their family members. Take the example of this Portuguese citizen born in Cape Verde, a 49 year old woman (in May 2012) who tried to formally reunite with her mother only after she was in Portuguese territory:

"My mother came in September 2011. I was in the hospital at the time, and I allowed her visa to expire... For that reason I had to pay 200 euros and then I had to prove that she was actually my mother [in order to be eligible to family reunification]." It was not easy to prove this family link, because SEF did not recognize the relationship: *"The names [in the documents] didn't match; you know how they did things back at that time [of my birth], the registry office was in the city, far from my village and no one knew how to read, so that's why the documents didn't match. [...] They told me I needed to go to the Cape Verde Embassy; there I was told that I would have to wait for a long time for the type of evidence SEF were requesting. So then I had this idea of asking all my siblings for their birth certificates, in order to prove that she was actually my mother"*.

She recollects how it was while her mother was in Cape Verde: *"It was hard not having my mother, of course. My children would be aware of their schoolmates' grandparents, and it's tough for them not having their own with them."* Also, *"with her so far away I could not know if she was eating well, if she slept, if she had access to tap water, if she was carrying weights... She sacrificed so much for me; now that I was better-off I had the obligation of bringing her back to me"*.

For this interviewee, it was not so much the process of family reunification that was costly but the fact that her mother's visa had expired while in Portugal: *"I was sick at the time and had no money whatsoever. So I had to hock some earrings to pay the financial penalty"*. Also, she *"had to miss a lot of days at work"* in order to handle this process.

Dependent children above 18 years old also have to be single and inscribed in the education system. This last administrative request has proven to be a problem in some cases of family reunification, as several schools or universities require that students above 18 years do the inscription in presence, which would oblige them to be already in the Portuguese territory. Furthermore, SEF requires that the formal inscription in the Portuguese education system is coming from a certified education institution or a certified degree. Acknowledging that, the measure 5 of the of the action plan for immigrants integration 2007-2013 also targets the acceleration in issuing the document that serves as evidence of registry into a Portuguese school, in order to prove the reunification of children single, over 18 and less than 25 years old under the sponsor's dependency, residing outside of national territory.

³⁵ According to Pascouau and Labayle (2011: 83), *"in Portugal, although the level of resources constitutes a threshold below which applications for family reunification are in principle rejected, the administrative authorities take into consideration other factors, especially when the family member of the applicant is a minor. More precisely, the law establishes that any decision to reject an application for family reunification has to take into account the nature and strength of the applicant's family ties, the period of residence in Portugal and the existence of family, cultural and social ties with the country of origin. In other words, the Portuguese authorities do implement obligations deriving from Article 17 of Directive 2003/86/EC."*

Furthermore, as reported before, in the notifications sent by SEF to ACIDI related to cases of refusal to family reunification, the insufficient means of subsistence appears as the most common ground for refusal. Some of the interviewed immigrants reported that sometimes the challenge to prove enough means of subsistence is to have a regular income or a salary that comes from a labour contract, as they might be incorporated in the informal economy.

In the focus group Flora Silva, President of an NGO that works with immigrants stated that *“The required means of subsistence are a major hurdle; in my opinion they shouldn’t offer such complications. Children are children here or abroad, and they have to be fed in both circumstances; they would be much better-off along with their parents than torn apart. The requirement of income is the origin of much anxiety, because parents have to leave their children with other relatives or even with friends or neighbours”*.

There were also some cases that the argument was related to the fact that immigrants could not give evidences of enough time with a regular income, referring that under article 9 of the Ordinance 1563/2007 (that frame the means of subsistence that immigrants have to prove) it is stated that immigrants have to give evidence of enough means of subsistence to the family for a period that should not be inferior to 12 months. It seems that this article of the Ordinance created some situations of discretion by SEF, as also the 2007 Immigration Act does not define a minimum time of residency as a requisite for the request to family reunification and/or foreseen that immigrants have the right to request family reunification upon arrival (underlined in the preamble of the Regulatory Decree no. 84/2007). It should also be noticed that the Ordinance in article 9 does not state that the regularity of income for the 12 months have to be past income. Therefore, could it be interpreted that immigrants could provide proofs of 12 months of future income (e.g. with a labour contract) as an acceptable response to the requirement foreseen in the law? Could this mean that the practice of the law had created several interpretations on how to prove means of subsistence, including the one that defined as a requisite past 12 months income proven, for example, with tax declaration of income of the previous year in Portugal?

In the 2010 Portuguese Ombudsman Report to the Parliament it is stated that *“(...) the proof of livelihood and lack of simulation in the employment status, is another subject for conflict”* between foreigners and the Immigration and Borders Service (2010: 73). MNE also has been conflicting with this requirement: in 2009, among the 140 complaints that the Ombudsman received about the delay of consulates in issuing the visa for family members to be reunite, some were related to the believe of consulates that the interested parties had insufficient financial resources. In that context the Ombudsman offered *“a reminder that means of subsistence are considered to be the stable and regular resources which are sufficient for the essential needs of the foreign citizen and, where appropriate, his family, specifically for the purposes of foodstuffs, accommodation, health care and hygiene.”* (2009: 63).

The misuse of the right to family reunification, specially by alleged dependent family members, has been reported by SEF as one justification to the deep analysis of this requirement by Portuguese authorities involved in the process. SEF identified situations of dependent family members that after arriving in Portugal through family reunification, had started carrying out paid activities (and thus violating one of





the requirements for granting this right to dependent family members) or ask, on their turn, family reunification for their spouse and children (SEF/EMN, 2012: 11).

Housing conditions: The sponsor has to prove that s/he has a **house** with conditions to host the family member intending to reunite. This requirement underlines two related issues: (a) rental contract or certification of house property; and (b) square meters of the house and/or number of rooms. In some cases SEF verifies the house *in loco* to confirm the housing conditions whenever the immigrant gives a declaration of the civil parish as proof of housing and not a real contract with characteristics of house.

Given the fact that some immigrants rent houses informally and/or without contract or have difficulties raised by the property-owners to formalise their stay in the house, this requirement is sometimes also a challenge. According to a Portuguese citizen born in Cape Verde, for people “*who have no house contract family reunification can be much harder*”.

One of the participants in the focus group (Nuno Sousa, from Seixal City Hall) stated that “*handling a declaration from the Civil Parish is usually enough. For most people, their housing conditions are not authenticated in a formal contract*”. However, we had access to reports from other SEF offices that express deep concerns about the housing conditions of the applicants. Thus, this is perhaps one of the circumstances in which, as it was mentioned by various participants in the focus group, procedures vary across the territory, depending on the SEF office in charge of evaluating the application.

Furthermore, two of our interviewees explicitly stated that they moved to larger houses before applying to family reunification. A Portuguese sponsor born in Guinea-Bissau declared that “*Before initiating the process I moved to an apartment which suited the criteria. I already knew that was important, because friends had told me...*”. An interviewee from Nepal expressed a very similar point. This may be an indicator that networks within migrant communities spread the word about the requisites and the practice of Portuguese authorities.

In a 2008 special report of the Ombudsman about immigration it was mentioned an intervention targeting a civil parish that did not provide certified declarations of residence to immigrants, and thus penalising the right to family reunification of those citizens. As reported by the Ombudsman, the civil parish was behaving as an immigration control institution arguing the lack of housing conditions of the immigrants addresses to host family members. As a consequence the Ombudsman remind that it is not under the competences of a civil parish to manage immigration, but only to certifies the residence of a certain person without any further judgements related to housing conditions (Social Report Ombudsman, 2008:103).

For Union citizens (including Portuguese citizens), as reported before, the law is absent related to the accommodation requirement. However, as reported by the respondents, in practice SEF asks for a proof of address that can be either an expense receipt related to accommodation with the name of the applicant (e.g. electricity bill, water bill) or a declaration of the civil parish. In other words, in comparison with third-country nationals, this requirement is much softer to Union citizens as the sponsor does not need to prove real housing conditions to receive more family members.

4.2. The judicial system of the courts and the legal aid system

As underlined in points 6, 7 and 8 of article 106 of the Law no. 23/2007, if the application for family reunification is denied by SEF, the decision can be challenged before a court. The refusal notification includes an explanation of the reasons that led to the refusal of the application. This notification letter also informs the applicant of his/her right to appeal this decision. The first step is to make the appeal to the director of SEF (hierarchical appeal), within 30 days, or to the Administrative Court, within 3 months. If this first appeal does not keep to the allegations of the immigrant s/he can appeal to the following judicial system steps: first, Court of Appeal (second order court), after that Supreme Court, and then European courts.

As reported before, the practice of the law has been showing that in some situations the consulates change the decision after the family reunification approval by SEF. In such cases, immigrants can appeal to the Ministry of Foreign Affairs headquarters or use the above mentioned procedure – Administrative Court, Court of Appeal or Supreme Court. Some challenges have been reported in the fieldwork related to the fact that in some exceptional situations, consulates do not justify to immigrants their refusal decision to visa issuing and/or do not formally do it in a written notification (but do it by phone). This creates some evident difficulties to appeal allegations, which makes some immigrants to ask consulates for a formal notification or ask for Ombudsman intervention.

It is important to take into consideration that the act of submitting an appeal does not suspend the initial decision, unless: (1) family members are already within national territory; and (2) the rejection decision is based exclusively on the grounds that the applicant cannot provide adequate housing and means of subsistence.

In case the immigrant does not have financial thresholds for legal aid and/or to make an appeal to the court, the Portuguese law foresees that all citizens can request free juridical support in the social security. According the Law no. 34/2004 and its revisions in the Law no. 47/2007, of 28 August, all citizens have the right to access to the judicial system even if they do not have enough financial means. Under article 8 it is specified that a person in a situation with insufficient economic means is someone that because of his/her income, patrimony and permanent expenses with his/her household, does not have objective conditions to support the expenses of a judicial process. After an application from the citizen, whenever social security identifies that that person has the right to benefit from a free juridical support, than the Portuguese Bar Association identifies a lawyer to defend the citizen. That lawyer is normally chosen according to the area of the law in which an appeal is being addressed.

Immigrants can also ask for juridical guidance in ACIDI' National Immigrant Support Centres. The Immigrant Legal Support Office of those centres provides free legal advice and mediation to all interested immigrants. The office does not intervene in situations that require the intervention of the Courts or in situations that are already being resolved there, but mainly guides immigrants on their rights in the judicial system and can help them to prepare an appeal to be presented to a court. These law professionals – most of them immigrants themselves - have expertise in immigration law, including family reunification.





4.3. Conclusion

This chapter aimed to clarify how family reunification procedures are implemented in practice, both analysing the institutions involved (its competences and discretion) and how rules and requirements to family reunification are implemented.

According to the Law, the Immigrant and Border Control Police (SEF) is the institution in charge of evaluating applications to family reunification. However, in practice the Ministry of Foreign Affairs (MNE), through its consulates, has some leverage in the process due to its task of conceding visas to family members abroad. When the family member of the applicant is already in Portugal (provided that s/he entered legally into the country) MNE does not interfere in the process. Though it plays no role in the decision making of the process, ACIDI provides a free service that advises immigrants who apply to family reunification.

Under this framework, family reunification might be considered, in its typical form (that is, with the family member abroad) as a two-step process. Consular authorities can request extra evidence of identity or family ties should any doubts emerge about the veracity of the information paid to SEF in the first phase of the process. The sporadic divergence between decisions by SEF and by the consular authorities is one of the most commonly identified problems by migrants, stakeholders and service providers, particularly in some specific countries.

If any citizen believes that a public institution is behaving unfairly towards him/her might present a complaint to the Ombudsman. The considerable number of complaints based on this ground has led the Ombudsman to write in his 2007 annual report that the collaboration of the central office of the Foreign Affairs Ministry would be highly valuable. SEF has sent liaison officers to some embassies, which has led to good outcomes.

This is not the only problem affecting applicants to family reunification. According to the notifications on refusal of family reunification requests that SEF sent to ACIDI, the most frequent reason for rejecting applications has been the insufficiency of the reported means of subsistence. Other documented problems include unproved family relationships, the inability to prove legal custody of a child, and the inexistence of a proper house to lodge the incoming family members. The later problem tends to affect more Third Country Nationals.

Should an immigrant take his/her case to the courts, and in case s/he cannot afford juridical services, s/he is entitled to juridical support from the Bar Association. ACIDI, IP offers juridical guidance, though its staff cannot represent the interests of immigrants being judged in court.

Chapter 5. Case law

The European Court of Justice case law on family reunification and its more recent decisions (e.g. Zambrano, McCarthy, Dereci) “did not have much impact in Portugal” (SEF/EMN, 2012: 7). Furthermore, so far, Portugal has not had a large number of national judgments regarding family reunification. This may be the product of several different factors. In the first place, the above mentioned fact that migration into Portugal is a rather recent phenomenon. On the other hand, the 2007 Law draws (at least in part) from a humanistic approach to migration, being comparatively generous. A more practical consideration may also play a role: according to participants in our focus group, it might be easier and less time-consuming (and less expensive) for non-successful candidates to fill a new application that addresses the motives behind the refusal than appealing to courts. An interviewed immigrant also said that in case family reunification would be refused she would not see the need to do an appeal, but would keep her mother in Portugal anyway even if that implied an illegal permanence in the country.



A Cape Verdean woman interviewed stated that should her family reunification application been refused, she “would keep her [mother] in Portugal, even if illegally. No doubt about that. That would cost the same as if lived in Cape Verde and having to send her money, paying for the consults and medication... No, she would stay with me here. Well, only if she wanted, of course, but I know that she wants to stay here”. Questioned about if she would appeal the decision, the interviewee rejected that possibility: “appeal to whom? This was the procedure to follow; if they rejected my application I would not let that keep my mother away...”

The Portuguese judicial system is comprised of different parallel categories of courts with different domains of jurisdiction. The Constitutional Court can be understood as the cornerstone of the system, since it is responsible for assessing cases of unconstitutionality and illegality of Portuguese Law (article 221). One of the decisions identified for this study was produced by this court. Another case law reached the Supreme Court, the highest body of judicial courts. Most of the cases analysed, because they imply administrative procedures and/or decisions from public institutions (mainly MNE or SEF), get to the Administrative Courts (the base of these courts), to the Central Administrative Courts of the South or of the North (one level higher) or even to the Supreme Administrative Court, which stands at the top of the hierarchy concerning administrative and fiscal issues.

Keeping in mind that two legal pieces frame the family reunification procedures – 2007 immigration act to third country nationals’ sponsors and Law no. 37/2006 to sponsors with an European Union nationality, including Portuguese -, the case law analyses will be accordingly grouped by the nationality of the complainers.

5.1. Third country nationals

In Portugal the **Constitutional Court** may proceed to the review of constitutionality in four ways. A prior review is the evaluation of a legal document before entering into force and is conducted after a request of the President of the Portuguese Republic. The second way is the so-called “successive abstract review” and consists of reviewing an Act already in force, irrespective of any concrete cases. This latter case,



“concrete review”, is the third kind of assessment. Finally, the Court might review unconstitutionality by omission.

The Constitutional Court was scarcely formally mobilized until today to family reunification cases framed by immigration acts. Its intervention has been, however, relatively important in cases of defending the right to be with the family. Before Law no. 23/2007 came into force, the Constitutional Court had yielded successive judgments claiming the unconstitutionality of previous immigration Acts on provisions dealing with the right to family. Being more precise, some articles of Decree-Law no. 244/98 were declared to be unconstitutional because they foresaw the expulsion of third country nationals convicted of crimes punishable with detention without taking into consideration the existence of dependent underage children residing in Portugal. A request of constitutionality review³⁶ was also reinforced by the Ombudsman to the Constitutional Court that delivered the Legal Decision no. 232/04. Although Decree-Law no. 244/98 had already been amended and the concerned articles were no longer into force, the decision had *ex tunc* effect, affecting previous decisions of expulsion not yet enforced. Interestingly, one of the arguments used to justify this decision was the protection of family life as defined by article 8 of the European Convention on Human Rights (Marques *et al.* 2011: 34-35).

Thus, as mentioned before, the 2007 Immigration Act included a special article (135) foreseeing that the permanence of the parents (regardless of their nationality and form of entrance, legally or not, in Portugal) of minors residing in Portuguese territory, who can prove that the child is dependent on them, cannot be refused. In other words, this article of the law prevents the expulsion of parents that have dependent children in Portuguese territory. This article intends to protect the right to family and not only the individual right, in accordance with Article 8 of the European Convention of Human Rights and point 6 of article 36 of the Portuguese Constitution which states that the parents cannot be separated of their children, unless they do not fulfil their fundamental duties as parents. This aspect of the Portuguese legislation went beyond the indications of the European Convention, since it prohibits the interference of the State and does not allow the possibility of refusal.

A recent new Legal Decision of 14 April 2011 of the **Supreme Court of Justice** underlined, however, that equilibrium should be found between the right to family and the protection of public order and prevention of infractions. This legal decision was a consequence of a case in which a foreigner was convicted to 8 years sentence with an accessory expulsion decision exactly one day after his baby born.

This would be the key point of the allegations for the review of the sentence. In this case, nonetheless, the court decided to keep the decision and expelled the convicted foreigner on the grounds that, as also foreseen in the Portuguese Constitution, parents have to fulfil their fundamental duties as parents; the provisions related to the right to family require that the children must be under the dependence of the parent, which was not the case. A later Legal Decision of 27 October 2011 from the Supreme Court of Justice further clarified that the prevention of foreigners' expulsion, foreseen in article 135 of the 2007 Immigration Act, refers to situations that happen after the citizen is already a parent and/or a person with dependent children (Marques *et al.* 2012: 36-37).

³⁶ Free translation by the authors of “fiscalização abstracta da constitucionalidade”.

At a lower juridical level, under **Administrative Courts**, several cases stand out related to the above mentioned contradictory decisions to family reunification applications between SEF, on the one hand, and MNE, on the other.

In 2009 a case reached the Central Administrative Court of the South³⁷, as a result of an immigrant appeal from a decision of the Administrative Court of Lisbon about a protective order claiming that the necessary visa should be issued “immediately” to overcome the family reunification of a child to his parent because the child age. In this case the claim of a foreign parent that requested the family reunification of his child before he completed 18 years old was under analysis. After SEF acceptance, the beneficiary went to the consulate to require the visa to come to Portugal. The consulate refused to issue the visa, arguing that meanwhile the child was above 18 years old and, as a consequence, should give extra proofs, as foreseen to descendants that reached majority (e.g. that he did not constitute a public threat to Portugal, that he had means of subsistence or, alternatively, that he was dependent on the parent). The defence lawyer mainly concentrated the arguments of the decision on the fact that it is not the consulate/MNE role to practice additional administrative requests to family reunification, as the request to family reunification and following decision is SEF competences. Furthermore, if SEF receives the request before the child reaches the 18 years old and/or decided on that ground, the visa that should be issued following SEF approval would never expire. It was further stated in this case law that the consulates/MNE “*intrudes systematically in processes of request of residence visa, with instructions already approved by SEF in family reunification procedures, which is abusive and illegal.*”³⁸ Although the immigrant claimed that the visa should be issued “urgently” as the family had been waiting, since SEF approval, for two years and as such the child was becoming an adult; still, the court decided that the requirements were not proven for this case to be considered as a protective order with suspensive consequences of MNE refusal to issue the visa. As a consequence, the court did not make a rule to MNE issue the residence visa immediately, recommending the immigrant to follow the case to a general legal process, which he was already doing in two other cases against MNE (still pending): in one other administrative case, the immigrant asked the annulment of MNE refusal decision to issue the visa; in the other he asked for the “immediate” visa issuing of MNE.

In another case law of 2011, an immigrant made an appeal to the Central Administrative Court of the South³⁹ for two complaints: one targeting SEF because although it had previously accepted the family reunification of the immigrant wife and children, that reuniting did not occur in practice because of the lack of visa issuing; and another case targeting MNE because the residence visas necessary for the family members to come to Portugal were not ensured. In this case the defence lawyer argued that MNE has not been acting in a correct and civilised way, but instead “*act in bad faith and in a dilatory way, aiming the demotivation of Mr. A and his family*”. It was further stated that the consulate cannot refuse the visa issuing as the authority to decide the family reunification belongs to SEF, and only in cases of international terrorism can MNE interfere in the issuing of residence visas, which was not the case. The arguments to defend the immigrant were also based on the European Convention, article 33 of the Charter of Fundamental Rights of the European Union, point 1 of article 13 of the Directive 2003/86/EC, and Tampere and Lacken European councils. MNE counter argued that consulates can reanalyse the documentation presented by the relatives before issuing the visa and/or that the visa issuing is not immediate

³⁷ Case law no. 05804/09, 21 January 2010, rapporteur Cristina dos Santos.

³⁸ Rapporteur Cristina dos Santos in the Central Administrative Court of the South.

³⁹ Case law no. 07208/11, 3 March 2011, rapporteur Cristina dos Santos.





after SEF approval, but some procedures are foreseen. After two years of waiting, following SEF approval of family reunification, the immigrant required the immediate visa issuing to his family members. The court decided that SEF approval had no interference or consequences in MNE decision, as two distinctive parts of the family reunification procedure were underlined by Law. As such the court was in favour of MNE, accepting its decision to not issuing a visa after the approval of family reunification by SEF.

The Legal Decision of 3 May 2011 of the Supreme Administrative Court (resulting from an appeal coming from one Central Administrative Court of 9 December 2010) becomes particularly relevant as it acknowledged that family reunification is solely one process, even attending to the involvement of two different institutions of the Portuguese State – SEF and MNE. In other words, this perspective was innovative in the sense that it treated family reunification as a single process and not a sequence of procedures ran by different institutions within the Portuguese State.

This case concerned the situation of a third country national man (holding a Temporary Residence Permit) who requested family reunification with his wife. After SEF's approval, the wife provided the necessary documents to the Portuguese Consulate in New Delhi, which refused to issue the visa. The sponsor appealed to the Administrative Court, which demanded that MNE should issue the visa immediately. MNE objected that this decision was unjust, based on the argument that the sponsor was not entitled to ask for a visa that would be issued to his wife. The MNE appealed to the Central Administrative Court which revoked the previous decision. The text of the verdict stated that the residency visa was a right of the family member abroad, and not of the sponsor, and thus it should not be the sponsor appeal to the court but the wife herself. The sponsor appealed to the Supreme Administrative Court which decided that *"the issuing of the visa is simply one stage of the administrative procedure that regulates family reunification"* (Oliveira 2011), confirming the immigrant claims, and therefore determining that MNE should issue the visa immediately (Marques et al. 2012: 38-40).

Several other legal decisions followed the same logic. In another Supreme Administrative Court decision (case 0442/11 of 27 July 2011), for example, another third country citizen claimed family reunification with his wife and two children. After SEF's approval, again the consulate in New Delhi refused to issue the visa. Once more the Supreme Administrative Court, after two appeals by the citizen from two previous administrative courts decisions, stated that under the scope of family reunification, the visa issuing is only the material conversion of the already approved procedure. It further stated that the competent institution for the acceptance or refusal of family reunification processes is the immigration and border control police (SEF), being underlined in the immigration law that, after SEF approval, consulates have to issue the visa "immediately". As a consequence, the court deliberated again that the consulate should issue the visa to both the wife and the children.

Nonetheless, in all of these cases it becomes clear that the Administrative Courts do not have necessarily the same position of the Supreme Administrative Court. Hence, although there is no consensus among the judicial instances, the legal decisions of the Supreme Administrative Court have been more in favour of the family reunification, acknowledging it as a fundamental right that should not be constrained by contradictory decisions of the Portuguese public institutions involved in the process and/or because of the lack of communication among them.

As reported before, the Ombudsman reports highlight this problem. In the 2010 Ombudsman Report it is

stated that “many complains are presented against the functioning of Portuguese consulates, in general for denying or delaying the granting of visas to relatives of citizens (some foreigners, other Portuguese) living in Portugal. A few consulates concentrate the majority of these complains, namely those in *Guinea-Bissau and Senegal, Pakistan and India, and China*.” (2010:74)⁴⁰ In the 2011 report it is confirmed that those consulates, especially the one in Guinea-Bissau⁴¹ and India, are the most mentioned in complaints (2011: 84).

The visa facilitation, as foreseen in point 1 of article 13 of the Directive 2003/86/EC, underlines that “as soon as a family reunification application has been accepted, the Member States concerned shall authorise the entry of the family member or members. In that regard, the Member State concerned shall grant such persons every facility for obtaining the requisite visas.” Nonetheless, as identified in the Commission report on the application of the Directive (COM (2008) 610: 12), the implementation of this provision creates difficulties for some Member States, on a legal and practical basis. Taking in consideration the case laws identified, the complaints received by the Ombudsman and the fieldwork illustrations gathered under this report, Portugal seem not to be an exception in this respect. It has been proved to be a challenge, in some cases, the practical implementation of article 64 of the Immigration Act that underlines that after the family reunification has been accepted it is “*immediately issued a residence visa to the family member or members*”. As discussed before, with the 2012 revisions of this article in the immigration act, it might be expected the persistence of implementation difficulties of article 13 of the Directive.

5.2. Union Citizens and Portuguese nationals

A few cases that went to the administrative courts may also be found involving European Union citizens or Portuguese nationals. Until now only two immigrants, claiming to be married with Portuguese nationals, challenged SEF decision under Law no. 37/2006. These cases, although related to family formation or family reunification, were mainly developed on the grounds that authorities claimed the existence of “marriages of convenience” between the EU sponsors and third-country national partners or spouses for the refusal of issuing the residence card to family members.

As foreseen in article 31, 1, of Law no. 37/2006, in situations of fraud, simulated marriage or union, all rights of residence and social benefits are withdrawn. Immigrants have the right to appeal administrative or judicial decisions related to alleged practice of fraud, following the requirements established in Articles 158 to 177 of the Administrative Procedure Code. In those cases, the administrative decision for cancellation of a residence permit on grounds of marriages of convenience is than subject of judicial review with suspensive effect up to a decision of the court.

The 2009 case law⁴² that reached the Central Administrative Court of the South captured media coverage and concerned an appeal of a third-country female citizen married to a Portuguese citizen against SEF, who was refused a residence card on the ground of “marriage of convenience” suspicion, thus becoming

⁴⁰ Available at http://www.provedor-jus.pt/restrito/pub_ficheiros/Relatorio_ar_2010ingles.pdf

⁴¹ The 2009 report also states that during that year there was an “*alarming set of problems in the visa-issue procedures adopted in the Consular Section of the Portuguese Embassy in Bissau, with clear implications on the level of complaints received and the number of open cases.*” (Ombudsman 2009: 61).

⁴² Case law no. 04973/09, 30 April 2009, rapporteur Carlos Araújo.





known as the “paid love” case.⁴³ The court was evaluating a protective order claimed by the immigrant, which demanded the suspension of the expulsion decision by SEF. The judge decided in favour of the immigrant, arguing that the police cannot violate the right to private and family life foreseen in article 26 of the Portuguese Constitution in the pursue of investigations based on suspicions about someone; moreover, the unduly use of public money for these purposes was criticized. It was further stated that being proven that they were married, “it is irrelevant if she does not cohabit with the husband and provide «paid love» to others”.⁴⁴ As underlined before, Law no. 37/2006 to which applies the right to free movement and residence of European Union citizens and their family members, does not define accommodation or cohabitation as a requirement for family reunification.

SEF appealed from this decision to the Supreme Administrative Court⁴⁵, claiming that the 2006 law foresees in article 31 the refusal of residence card issuing if is proven a simulated marriage. SEF further counter-argued that the combat of “marriages of convenience” is a social relevant issue of internal security that aims to avoid the abusive and deceptive use of the right that is on the bases of marriage institution and of family relationship, being also penalized in the law with an imprisonment sentence that can reach 5 years. SEF further highlighted that the female immigrant did not prove to have a common life with the Portuguese husband, whom even declared that she did not co-habit with him, nor did he know where she was, and that advertising of her sexual favours could be found in newspapers with her mobile phone contact.

The court considered that the law does not define cohabitation as a requisite to the issuing of a residence card to a family member of a European Union Citizen, (the only defined requisite is a marriage certificate). However, it stated that the law should protect genuine family relationships, and therefore concerning only relatives in the true sense of the word. As such, the immigrant only proved to have a juridical contract of marriage but not a formal family bound with her husband, which was a requisite to the rights that she claimed. It was also acknowledged that the police investigations and the use of public money on that behalf are legal imperatives of national and European community frameworks under the criminalization of “marriages of convenience”. In sum, the court decided in favour of SEF’s decision, and the immigrant did not get the residence card.

The second case law is more recent⁴⁶ and it involves a third country male citizen married to a Portuguese woman. SEF removed his residence card claiming abusive and deceptive use of the right of European family members. After the Administrative Court of Porto decided in favour of SEF’s decision, the immigrant made an appeal to the Central Administrative Court of the North. The main arguments of the immigrant were that he was not illegal when he got married to the Portuguese citizen; he insisted that he was a working man who could speak Portuguese very well, creating jobs (as an entrepreneur), paying social security and taxes regularly and, for all that, not needing to be married with a Portuguese to have a residence permit. He further stated that they decided to divorce after three years of marriage with mutual consent because the wife had been involved in an extramarital relationship from which a child was born.

⁴³ <http://www1.ionline.pt/conteudo/7191-tribunal-considera-irrelevante-exercer-o-amor-remunerado-e-contraria-sef>

⁴⁴ Rapporteur Carlos Araújo in the Central Administrative Court of the South.

⁴⁵ Case law no. 0718/09, 14 July 2009, rapporteur Rosendo José, and 30 September 2009, rapporteur Costa Reis.

⁴⁶ Case law no. 2370/08.3BEPRT, 24 February 2012, rapporteur José Augusto Araújo Veloso.

SEF contra-argued presenting additional facts that highlighted a “marriage of convenience” and that justified the decision to remove the residence title of the immigrant: the third-country male citizen got married in 2002 to a Portuguese, thus obtaining a residence card valid until July 2008 (before that he held an one year permit valid until 2003); in the end of 2005 the immigrant divorced with mutual consent from his wife; in 2007 he asked for a duplicate of the residence card as he had lost it; one month later he married in his home country with a local woman and asked for family reunification so she could come to Portugal; in the beginning of 2008 SEF notified the immigrant that he should make allegations or explanations because his right of residence would be removed; the immigrant made allegations, but SEF decided to remove the residence permit and to refuse his family reunification request concerning his new wife. SEF further stated that the Portuguese former spouse was heard, declaring that she had met the third-country male citizen through a friend that explained that he was about to become illegal and would need to marry a Portuguese single woman to resolve his situation; he was then willing to pay if she married him. After the marriage she received some money and did not had any other contact with the immigrant. As a result, the Central Administrative Court of the North decided in favour of SEF, maintaining the decision of the administrative court: the immigrant should lose the residence title.



It is clear that these two cases are not representative nor are they confined to the family reunification framework. Nevertheless they highlight a problem in the requests for residence titles on the grounds of marriage of third country citizens with European Union citizens, including Portuguese nationals. The cases further highlight constrains of authorities in determining the motivations and/or the proofs for the sponsor and the beneficiary in engaging in a marriage of convenience. Being an issue of individual or private life, it becomes challenging to ascertain the truthfulness of the relationship that is bounded with social and cultural aspects, and that might go beyond the authorities and the legislator outlines.

5.3. Conclusion

Although Portugal has not had a large number of national judgments regarding family reunification so far, the above relevant national judgments highlight that family reunification rulings reach the several levels of administrative courts. Furthermore, keeping in mind the arguments used in court that mainly are linked with the specificities of the national legal framework, it is clear that the more recent decisions of the European Court of Justice (e.g. Zambrano, McCarthy, Dereci) did not have much impact in Portugal.

Immigrants that appeal from authorities’ decisions under family reunification procedures, depending on the sponsor nationality and on the legal framework that applies, have been highlighting in court different queries. Third country nationals mainly claim about infringement procedures by MNE, related to the denying or delaying the granting of visas to family members after SEF’s approval of family reunification. The very few cases identified involving family members of Portuguese nationals mainly reflect immigrants’ reactions to SEF’ decisions to remove residence rights after “marriages of convenience” being proven.

The comparison of judgments, including their arguments, for the same case law in different levels of administrative courts, allows understanding that courts do not take necessarily the same position. Legal decisions of the Supreme Administrative Court tend to be more in favour of family reunification and of



the protection of immigrants' right to live in family, acknowledging that this fundamental right should not be constrained by contradictory decisions of the Portuguese public institutions involved in the process (SEF and MNE). One 2011 decision of the Supreme Administrative Court is particularly relevant because it acknowledged that family reunification is a single process, even attending to the involvement of two different institutions of the Portuguese State – SEF and MNE.

The Constitutional Court has also yielded successive judgments claiming the unconstitutionality of previous immigration Acts to 2007 on provisions dealing with the right to family. Although the Constitutional Court does not have jurisprudence in specific family reunification processes, in several cases it mainly dealt with the right to family unity in general, as foreseen in the Portuguese Constitution.

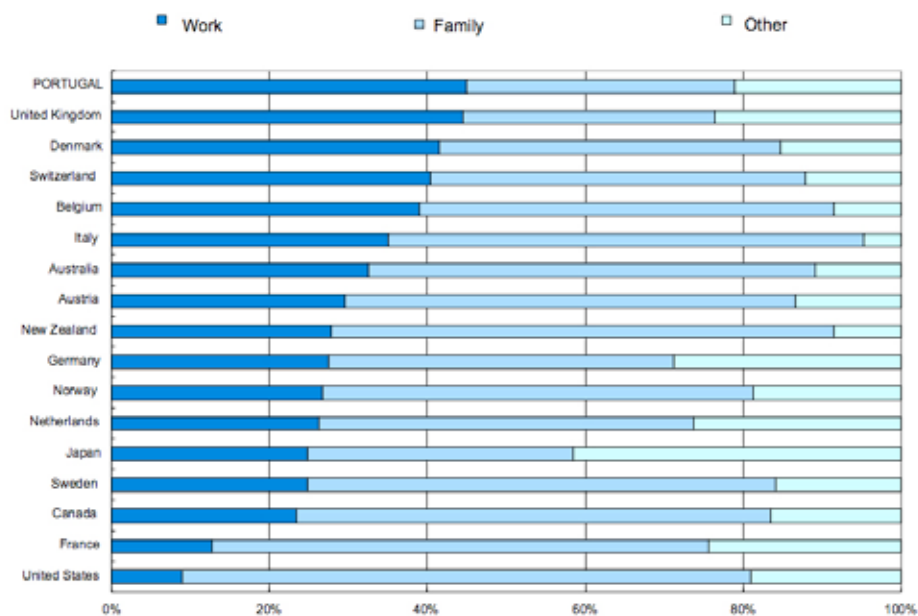
The immigrants' arguments and the rulings analysed also reflect some of the challenges already identified in chapter 4 about the administrative competences and the practices of the law, some of which also underlined in complaints hosted by the Ombudsman. While it should be acknowledged that only few immigrants go to the court to appeal from decisions of the Portuguese authorities, as it might be easier and less time-consuming and expensive to fill a new application that addresses the motives behind the refusal, it is still clear that those who did (mainly third country nationals that argued against MNE) won in court, with the consequent prevailing of their right to live in family.

Chapter 6. Impact on family reunification

A brief comparative perspective can be fruitful before engaging with the qualitative and quantitative analysis of Portuguese data on family reunification. Being a recent immigration country, Portugal has mainly received immigrants driven by labour market opportunities, that is, within the main category of entry to work. As reported by the OECD (2008: 290), according to data from 2004/2005 Portugal was one of this organization's member countries with the highest rate of permanent-type migration inflow motivated by work (45%), with family reasons accounting for about 32%. This result contrasted with the majority of EU countries, since in most of them family was the primary source of migration inflows (see Figure 6.1). This character has already been highlighted by scholars working on family reunification, who argue that not only Portugal is a recent migration country - and therefore with an immigrant population still adapting itself to the country at various levels - but also that the previous legal framework was stricter than today's (Fonseca and Ormond, 2008: 109).

Aiming to confirm that this tendency of low levels of migration under family reunification provisions persisted, especially after the 2007 change of the immigration act and the consequent improvements in the family reunification framework, an evaluation of more recent data is needed. Furthermore the less favourable economic conditions and the decrease of employment opportunities of the last years (as a consequence of the economic crisis lived in Portugal since 2008), seem to have had important impacts on family reunification.

Figure 6.1. Composition of the (legal) permanent-type migration inflow into OECD countries by category of entry, standardised definition, 2004/2005 average



Source: Data from OECD (2007a) cited in OECD (2008: 290). Family includes reuniting family members of workers

As reported before, family reunification in Portugal can be described as a two-step process. The Immigrants and Border Service (SEF) is responsible for assessing applications by immigrants who wish to bring in their family members or by family members themselves who legally entered into national territory. In case of approval, and should the family member be out of the country, then it is up to MNE to issue a visa which allows s/he to enter into Portuguese territory. Hence, two administrative sources of information are available to characterise statistically the family reunification: (1) residence visas issued to family members by consulates/MNE, and (2) family reunification residence permits issued in Portugal by SEF.

The different frameworks for entering and staying in Portugal that apply to third country nationals (TCNs) and European Union (EU) citizens reflect on the availability and comprehensiveness of data. The most acute problem is that detailed information specifying the reason for visa or residence permit granting (e.g. family reunification) is only available for family members who are TCNs (regardless of the citizenship of the sponsor). Even for these, reports prior to 2007 do not distinguish between the different reasons behind the issuance of residence titles, compelling the analysis to stick from this year onwards. This is a direct consequence of the immigration act change in 2007 that simplified the diversity of titles issued, underlying only one – residence permit – with different purposes, including family reunification. Also, because some of the available data do not disaggregate family members of EU citizens from family members of TCNs, some of the tables and figures presented in this section comprise individuals reuniting within both frameworks.





The figures provided by MNE must be read with some further caveats in mind. First, as underlined before, it should be emphasized that family reunification is foreseen in law both for family members who are in the country of origin, and for those already in the Portuguese territory. For that reason, not all family members need to apply to a visa outside Portugal. Furthermore, there is an important absence of data about Brazilian nationals since the signature of a bilateral treaty between Portugal and Brazil determined that citizens of both countries are exempted of visas for stays up to 90 days. Therefore, Brazilian family members do not need to apply to a visa after SEF approves family reunification.

According to the figures from MNE, there has been a decrease in the number of visas for family reunification issued in Portuguese consulates, from 6,755 in 2008 to 3,221 in 2011. This decline also represented a relative decrease of the family reunification visas in the total number of residence visas issued: from 45.9% in 2008 to 27.8% in 2011 (see Table 6.1). Such a decrease can reflect both the return of immigrants to their home countries (as has also been reported by the Portuguese authorities) due the economic situation of Portugal and, consequently, less interest in family reunification; and/or less income and consequently less possibilities to guarantee the fulfilment of certain requirements of the family reunification process (e.g. income, housing conditions).

Table 6.1. Family Reunification visas issued from 2008 to 2011, according to selected top nationalities

	2008	2009	2010	2011
Cape Verde	1,710 (25.3%)	1,142 (22.7%)	750 (22%)	895 (27.7%)
Moldavia	1,202 (17.8%)	674 (13.4%)	408 (12%)	250 (7.7%)
China	747 (11.1%)	761 (15.1%)	652 (19.1%)	305 (9.5%)
Ukraine	1,093 (16.2%)	684 (13.6%)	353 (10.4%)	226 (7%)
TOTAL	6,755 (100%)	5,037 (100%)	3,406 (100%)	3,226 (100%)

Source: Ministry of External Affairs of Portugal (MNE)

In 2011 the nationalities that requested family reunification also diversified: although Cape Verdeans still were the nationality that more request and benefit from family reunification (representing 28% of the total visas issued for family reunification), followed by the Chinese (9.5%, in 2010 they were 19.1%); in 2011 Bissau-Guineans had a higher number (297) than Moldavians and Ukrainians.

Family reunification: data from the Borders Service (SEF)

SEF data, on the other hand, report the number of residence permits issued in Portugal for foreign family members that just arrived with a residence visa or that were already in the country and throughout family formation are now entitled to another permit. Table 6.2 summarizes the basic facts of family reunification residence permits of the past four years, placing them in the broader background of immigration to Portugal since 2008. We can observe a considerable decline in the issuance of residence permits on grounds of family reunification from 2008 (27,269 permits) to 2011 (18,228 permits). Although this decline is far from negligible, underlying a rate change of -33.2%, the importance of family reunification in the overall permits issued increased from 37.4% in 2008 (or from 32% in 2005) to 40.2% in 2011. Furthermore, family related permits accounted for 42.8% of residence titles to third country nationals (TCNs) in 2008 and for 58.2% of them in 2011. This share sets Portugal more in line with the OECD context mentioned before.



Table 6.2. Absolute number of first residence permits (FRPs) issued (Percentage of global number of permits)

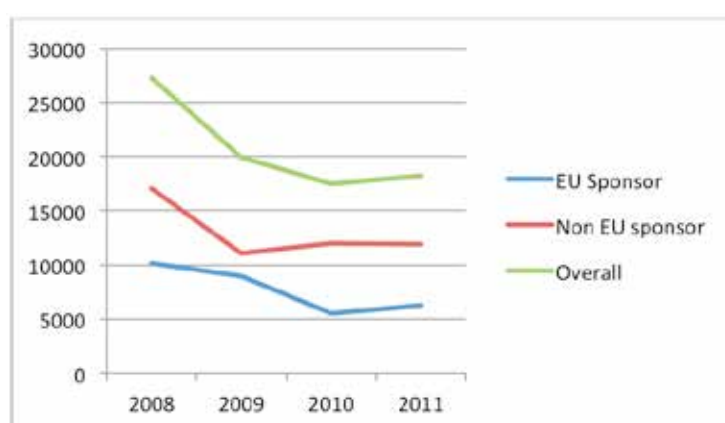
	2008	2009	2010	2011
FRPs issued to TCNs joining an EU Sponsor	10,183 (14%)	8,926 (14.5%)	5,511 (10.7%)	6,297 (13.9%)
FRPs issued to TCNs joining a non EU sponsor	17,086 (23.5%)	11,035 (18%)	11,967 (23.6%)	11,931 (26.3%)
FRPs issued to TCNs (family reunification, regardless of sponsor)	27,269 (37.4%)	19,961 (32.5%)	17,478 (34.4%)	18,228 (40.2%)
Number of permits to TCNs (all reasons)	63,715 (87.5%)	46,234 (75.2%)	37,010 (72.9%)	31,277 (68.9%)
Global number of permits (TCNs and non-TCNs)	72,826 (100%)	61,445 (100%)	50,747 (100%)	45,369 (100%)

Source: SEF

The global number of residence permits (whether to TCNs or to EU citizens) gradually dropped from 2008 (72,826) to 2011 (45,369). As for residence permits exclusively for TCNs, the figure fell from 63,715 in 2008 to 31,277 in 2011. So, although the migration flow to Portugal in 2011 reflected a decrease in the total number of Residency Authorisations issued, the category with the highest number of Residency Authorisations was Family Reunification with 11,931 out of a total of 45,369 (SEF, 2012:20).

The majority of the titles have been issued to TCNs reuniting with other TCNs; despite a decrease from 2008 (62.7%) to 2009 (55.3%), the years of 2010 (68.5%) and 2011 (65.5%) witnessed a new rise in this share, which now accounts for roughly two thirds of permits issued on grounds of family reunification. Figure 6.2 illustrates this breakdown of new residence titles deriving from both types of family reunification – with TCN sponsor or EU sponsor.

Figure 6.2. Number of first residence permits by citizenship of sponsor



Source: SEF



For 2011, information on gender and age is also available. Concerning gender, out of the 18,228 residence permits issued, on the ground of family reunification, 10,694 (59%) were held by female individuals (see Table 6.3). The pattern of a fairly larger number of female family members is discernible in the majority of the most significant nationalities, being particularly relevant in the cases of Brazil, Ukraine, India and Moldova: in these four cases about 63%-65% of reunited family members were women. China (46%), Cape Verde (50%) have a more balanced sheet, while Guinea (31%) is the only case among the top nationalities where men clearly outnumber women.

Table 6.3. Gender of reunited family members in 2011

Nationality of reunited family member	Male	Female	Total
Brazil	2,324 (37.4%)	3,887 (62.6%)	6,211 (100%)
Cape Verde	1,316 (50.3%)	1,300 (49.7%)	2,616 (100%)
Ukraine	482 (35.8%)	863 (64.2%)	1,345 (100%)
Guinea-Bissau	654 (48.8%)	686 (51.2%)	1,340 (100%)
China	441 (45.7%)	524 (54.3%)	965 (100%)
Angola	352 (43%)	466 (57%)	818 (100%)
Sao Tome and Principe	322 (43.2%)	424 (56.8%)	746 (100%)
India	266 (36.7%)	459 (63.3%)	725 (100%)
Moldova	244 (34.7%)	459 (65.3%)	703 (100%)
Total	7,534 (41.3%)	10,694 (58.7%)	18,228 (100%)

Source: SEF

Age structure also provides an interesting reading. Because data on family relationship has not been collected properly (see Annexes II and III), it is not possible to develop an exact analysis about the shares of spouses/partners, children and other family members among beneficiaries of family reunification. Nevertheless, Table 6.4 reflect that more than half (55.9%) of TCNs joining their families in Portugal were under 20 years old– a trend widespread across all nationalities. Among top nationalities, India provides the only example where the categories of “under 20 years” old and “from 20 to 64” are roughly equivalent. Although it is not possible to establish a direct link between these beneficiaries and descendants joining their families, we can hypothesize that a very significant part of the trend reflects precisely that. We are then led to suppose that approximately half of the beneficiaries of family reunification in 2011 were dependent children. On the other hand, the reuniting with family members over 64 is quite rare across all nationalities, though it is slightly more frequent in the case of Portuguese Speaking African Countries (PALOP).

Table 6.4. Age structure of reunited family members in 2011

Nationality of reunited family member	Under 20	From 20 to 64	Over 64	Total
Brazil	3,392 (54.6%)	2,776 (44.7%)	43 (0.7%)	6,211 (100%)
Cape Verde	1,724 (65.9%)	771 (29.5%)	121 (4.6%)	2,616 (100%)
Ukraine	805 (59.9%)	499 (37.1%)	41 (3%)	1,345 (100%)
Guinea-Bissau	792 (59.1%)	505 (37.7%)	43 (3.2%)	1,340 (100%)
China	559 (57.9%)	386 (40%)	20 (2.1%)	965 (100%)
Angola	480 (58.7%)	302 (36.9%)	36 (4.4%)	818 (100%)
Sao Tome and Principe	492 (66%)	219 (29.4%)	35 (4.7%)	746 (100%)
India	360 (49.7%)	353 (48.7%)	12 (1.7%)	725 (100%)
Moldova, Republic of	380 (54.1%)	304 (43.2%)	19 (2.7%)	703 (100%)
Guinea	272 (75.8%)	87 (24.2%)	0 (0%)	359 (100%)
Total	10,186 (55.9%)	7,606 (41.7%)	436 (2.4%)	18,228 (100%)

Source: SEF

For the available administrative data (mainly from SEF) it is also possible to disclose some specific tendencies to third country nationals as sponsors (for whom family reunification procedures are framed by the Immigration Act) and European Union citizens as sponsors (under Law no. 37/2006).

6.1. Third country nationals as Sponsors

Focusing on the particular case of TCNs joining family members without EU citizenship, the data enable to assess their main countries of origin. Brazil stands out as the top sending country, with 19,517 migrants joining their families between 2008 and 2011. That figure alone accounts for 37.5% of all TCNs reuniting with TCN sponsor during this period. This figure has proven to have impact not only in Portugal, but to the EU-27 in general, as Brazil stands in seventh place in the list of the main groups of citizenship granted a new residence permit in the EU-27 and Portugal is in first in the list of the main EU member states issuing the permit to Brazilians (representing in 2009, 32.2% of the visas issued in EU-27 to Brazilians, according to EUROSTAT, 2011:4). Cape Verde (13%) comes next in the list, closely followed by Ukraine (11.5%). It is interesting to note that China takes the fourth position (7.5%), ahead of nations with an older background of migration to Portugal such as Angola or Guinea-Bissau.

The relative importance of family reunification in the total residence permits issued per nationality reflects, however, a different picture. As also highlighted in Table 6.5, family reunification has not the same impact in the total new arrivals for each nationality. Family reunification is the main reason for arrivals in 2011 for Ukrainians (66.6%), Chinese (62.6%) and Moldavians (55.3%), contrasting particularly with the general rate for the total TNCs (26.3%) and Indians (23.4%). The lower rates among PALOP (Cape Verde, Guinea-Bissau, Sao Tome and Principe and Angola) - the oldest immigrant communities in the country - contrast to the more recent immigration nationalities in Portugal (Ukraine, Moldavia, China).

Hence, these tendencies observed in the relative importance of certain groups of citizenship in family reunification permits issued in Portugal do not confirm exactly the general observations reported by





EUROSTAT (2011:4), according to which a combination of factors should be behind the list of the main nationalities of origin: common language, geographical proximity, historical links and established migrant networks. Available data reflect that the recent immigrant populations that are in the top-ten nationalities in Portugal are the ones that apply more for the family reunification (e.g. Brazil, Ukraine, Moldova, China) and not the more established, with a common language (with exception of Brazil) and/or with historical links (mainly the African Portuguese Speaking Countries - PALOP). Related to sponsors with an EU citizenship, the change of the citizenship law in 2006 in Portugal reinforced extremely the number of immigrants getting Portuguese nationality, with the older communities being in a better position to access that status. As such, we are mainly dealing with 'new nationals' (with a PALOP' country of birth) that are not counted in these figures, but still confirm the above mentioned EUROSTAT analysed behaviour of nationalities more willing to family reunification in each member state.

Table 6.5. Number of first residence permits issued to the top-10 nationalities of TNCs joining a non-EU citizen for reasons related to family formation and reunification

Country of Citizenship	2008	2009	2010	2011	2011 rate for the total permits issued
Brazil	6,004 (35.1%)	4,505 (40.8%)	4,847 (40.5%)	4,161 (34.9%)	32.3%
Cape Verde	2,406 (14.1%)	1,275 (11.6%)	1304 (10.9%)	1,797 (15.1%)	39.0%
Ukraine	2,095 (12.3%)	1,358 (12.3%)	1,336 (11.2%)	1,173 (9.8%)	66.6%
China	1,084 (6.3%)	838 (7.6%)	1,030 (8.6%)	944 (7.9%)	62.6%
Moldova	1,406 (8.2%)	681 (6.2%)	642 (5.4%)	477 (4%)	55.3%
Angola	934 (5.5%)	577 (5.2%)	616 (5.1%)	615 (5.2%)	44.9%
Guinea-Bissau	989 (5.8%)	317 (2.9%)	522 (4.4%)	637 (5.3%)	36.5%
Sao Tome and Principe	459 (2.7%)	296 (2.7%)	438 (3.7%)	538 (4.5%)	40.7%
India	260 (1.5%)	196 (1.8%)	156 (1.3%)	259 (2.2%)	23.4%
Pakistan	167 (1%)	141 (1.3%)	131 (1.1%)	151 (1.3%)	48.4%
Total	17,086 (100%)	11,035 (100%)	11,967 (100%)	11,931 (100%)	26.3%

Source: SEF

Refusals of family reunification do not have also the same impact in each nationality of the family member. As table 6.6 highlights, based on the monthly average of refusals reported by SEF to ACIDI per monthly average of family reunification permits issued by SEF, it is clear that certain nationalities have higher rates of refusals of family reunification than others. Chinese (5%), Guineans (7%), Indians (20%) and Pakistanis (8%) show higher refusal rates per family reunification permits issued, between 2008 and 2011, than all the other nationalities (being the average for the total 2.5%). Coincidentally enough, these are exactly the previously identified nationalities that face more refusals and difficulties in the visa issuing at the consulates of their home countries (Guinea Bissau, China and India). As reported before in chapter 4, difficulties in proving means of subsistence or dependence of family members and in providing evidences of family ties, are the main grounds of refusal by SEF to these nationalities applicants for family reunification. In contrast, Brazilians (0.5%) and Ukrainians (1%) have the lowest rates of refusal per total permits issued during these reference years, not only because they have the higher monthly average of family reunification permits (being among the three top nationalities in the country), but also

because they have in absolute figures lower monthly average of refusals compared to the other nationalities (especially China and India).

Table 6.6. Family reunification mensal average of refusals and of permits issued, between 2008 and 2011

Country of origin of the family member	Monthly average of refusals	Monthly average of family reunification permits issued	Rate of refusals by family reunification permits issued
Brazil	2.93	542.14	0.5%
Cape Verde	7.21	188.39	3.8%
China	5.25	108.22	4.9%
Guinea Bissau	4.50	68.47	6.6%
India	4.75	24.19	19.6%
Moldova	2.50	89.06	2.8%
Pakistan	1.36	16.39	8.3%
S. Tomé and Príncipe	0.68	48.08	1.4%
Ukraine	1.71	165.61	1.0%
Total	36.11	1,444.97	2.5%

Source: SEF & ACIDI (authors calculations)

A better evaluation of family reunification impact in each nationality would require data about the effective applicants per year in comparison with the permits issued for the same nationality. Since such data are unavailable, the sample of immigrants in Portugal (1,259 immigrants) made from September to December 2011, under the Immigrant Citizens Survey (ICS, 2012) might give some clues in this respect. About 67% were succeeded in reuniting with his/her spouse or partner and 77% with his/her children. Most of the procedures were resolved very quickly – 75% of the family reunification procedures that already get a closure for spouses/partners were opened in 2010/2011 and 85% involving the family reunification of children were open in that same period.

SEF has also the responsibility of gathering information concerning the family tie linking the immigrant with the sponsor - partner/spouse, child or other – for each permit issued for reasons related to family formation and reunification. Unfortunately, as Annexe II reveals that information is unknown for a large majority of cases. Even so it is possible to identify that, among known cases, family reunification is primarily used to the reunification of children.

6.2. European Union citizens as sponsors of third country nationals

Table 6.7 shows the evolution of the number of residence permits issued on the ground of family reunion with an EU sponsor, by citizenship of the holder. Brazil stands out by far as the main origin of family members (14.540 from 2008 to 2011, almost half of all permits issued for family reunion), followed by Cape Verde (3.386 during the same period) and Guinea-Bissau (2.490, also from 2008 to 2011). Ukraine, India and Angola, with about 1,000 permits issued on this ground should also be taken into consideration.





Table 6.7. Number of first residence permits issued to the top-10 nationalities of TNCs joining an EU citizen for reasons related to family formation and reunification

Country of Citizenship	2008	2009	2010	2011	2008-2011
Brazil	6,153 (60.4%)	4,165 (46.7%)	2,172 (39.4%)	2,050 (32.6%)	14,540 (47%)
Cape Verde	773 (7.6%)	1042 (11.7%)	752 (13.6%)	819 (13%)	3,386 (11%)
Guinea-Bissau	716 (7%)	587 (6.6%)	484 (8.8%)	703 (11.2%)	2,490 (8.1%)
Moldova	328 (3.2%)	375 (4.2%)	243 (4.4%)	226 (3.6%)	1,172 (3.8%)
Ukraine	397 (3.9%)	391 (4.4%)	154 (2.8%)	172 (2.7%)	1,114 (3.6%)
India	53 (0.5%)	279 (3.1%)	285 (5.2%)	466 (7.4%)	1,083 (3.5%)
Angola	278 (2.7%)	304 (3.4%)	174 (3.2%)	203 (3.2%)	959(3.1%)
Sao Tome and Principe	119 (1.2%)	204 (2.3%)	155 (2.8%)	208 (3.3%)	686 (2.2%)
China	155 (1.5%)	252 (2.8%)	28 (0.5%)	21 (0.3%)	456 (1.5%)
Morocco	95 (0.9%)	131 (1.5%)	100 (1.8%)	127 (2%)	453 (1.5%)
Total	10,183 (100%)	8,926 (100%)	5,511 (100%)	6,297 (100%)	30,917 (100%)

Source: SEF

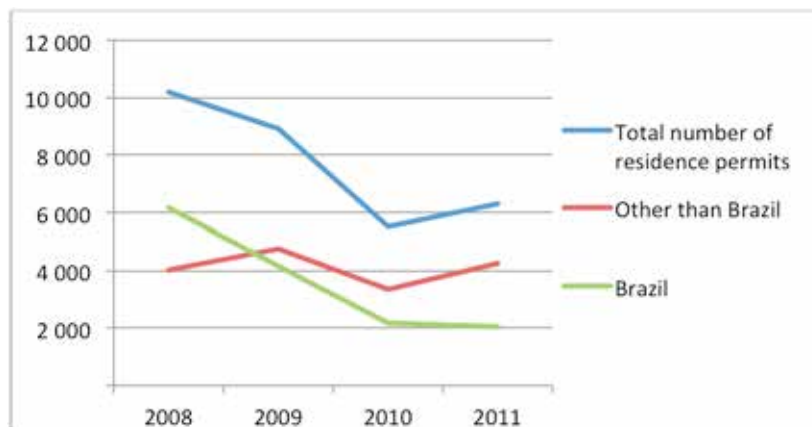
Interestingly, the top nationalities do not differ much from the ones in table 6.5, except for the case of Chinese citizens which have a lower share of family reunification sponsored by EU citizens. This concurrence might be explained by the fact that some of the EU citizens to which Table 6.7 refers to are “recent” Portuguese citizens with an immigration background. The citizenship act changed in 2006, and a strong increase in the acquisition of Portuguese nationality has been recorded, especially from long-term immigrants in Portugal and immigrant descendants. As such, older immigrant populations in Portugal (mainly from African Portuguese Speaking Countries – Cape Verde, Angola, Mozambique, Guinea-Bissau, São Tomé and Príncipe) had an expressive upsurge in the “new” Portuguese in recent years.

Another (complementary) explanation could be the increasing share of so-called “mixed” (or transnational) marriages between Portuguese citizens and foreigners. According to data from INE, in 2001, there were 1,372 marriages between Portuguese and TCNs, accounting for 2.35% of the national aggregate. By 2009 this figure had risen to 4,135 marriages (10.24% of marriages celebrated in Portugal). Brazilians are one of the top nationalities in the mixed marriages statistics (Raposo and Togni, 2009).

These two circumstances increase the number of eligible beneficiaries to a residence card based on the rights conferred to family members of European citizen.

Since Brazil has such an uneven impact in the global figure, it might be interesting to compare its evolution against all other nationalities. Figure 6.3 summarizes this comparison, suggesting that Brazil’s share in the volume of Brazilian family members of EU citizens moving to Portugal is shrinking, while the sum of all other nationalities has remained quite stable. This tendency reflects two important contextual factors that have been affecting globally the inflows to Portugal (not specific to family reunification): 1) the economic fragility of Portugal that has decreased its attractiveness to immigrants bringing their families or even to staying in the country (immigration population has been decreasing in the past two years); and 2) Brazilian economic growth of the past years that has led to an upsurge in the return of this immigrant population and/or decrease the inflow to Portugal.

Figure 6.3. Residence permits issued to TCNs joining EU citizens for reasons related to family reunification



Source: SEF



A Brazilian woman living in Portugal applied, and eventually managed to benefit from, family reunification after marrying a Portuguese citizen. This was not without complications, though: *“It was not so difficult gathering documents. The big challenge was that we had lived in Spain and he was benefiting of an unemployment subsidy from there”*. So, even though her husband was Portuguese, it had to be proved that he was actually living in Portugal: *“I’m aware that it looked like a marriage of convenience. The authorities knew that my husband was getting a Spanish unemployment subsidy, that he had a car with Spanish plates...”*.

These suspicions led to the refusal of their first application, which eventually complicated the situation of the woman:

“It affected my job. I was working at a hotel at the time, and I was promised a contract on the condition of obtaining my residence card. Because application to family reunification was refused I got unemployed.” She had to elaborate her file for the second application, which was eventually approved: *“I had to bring together all the documents, tickets, receipts, proofs that we were actually a couple and that he was actually living here with me”*.

As shown in Tables 2.1 and 2.2, the level of income needed for family reunification is not higher than the Portuguese median earnings. Still, this requirement affects the effective possibility of family reunification - not only due to its financial amount but also to the documents needed to prove it. According to a NGO representative, “we have to have in mind that work in Portugal is getting more precarious day after day and it shouldn’t be demanded to immigrants who wish to bring their children a professional status that doesn’t match with Portuguese reality”. This statement refers to the growing tendency of informalisation of labour relations in Portugal, and not only among immigrants. The fact that many labour relations are not formalized by a contract binding the employer means that applicants can have a hard time attesting their economic independence. This issue was already identified by Fonseca *et. al.* (2005: 162)



6.3. Family reunification: data from the Immigrant Citizens Survey

The Portuguese sample of the Immigrant Citizen Survey⁴⁷ includes 1.259 individuals, living in three Portuguese cities (Lisbon, Setubal and Faro). 609 (48.4%) of them are females. It is important to stress that the sample includes not only third country nationals but also Portuguese nationals with an immigrant background. 420 (33.4%) of the respondents had already applied to Portuguese citizenship, and 64.7% of them (295) saw their applications approved. 123 (27%) of those who asked for Portuguese citizenship were still waiting for an answer, meaning that only 38 (8.3%) individuals who applied were unsuccessful. 229 (18.2%) respondents stated that their first residence permit in Portugal was obtained via family reunification.

Respondents were asked about applications to family reunification only if they stated that they had ever had a family member (spouse/partner or child) abroad. Should the answer be positive, then the individual would be asked about whether s/he had applied to family reunification and, if so, what was the outcome. In case the respondent answered that s/he had not applied to family reunification, the interviewer would try to assess the motives behind that. The design of the questionnaire did not forecast the possibility of applying to family reunification with the family member already in national territory which is, as we have seen, an option available to immigrants in Portugal. As such, migrants who applied for family reunification according to this framework are likely to be excluded from the analysis. Furthermore the questions on family reunification experience target only the reunion with partners and/or children, excluding the ascendants reunion (also foreseen as a possibility in Portugal).

Table 6.8, highlights the number of immigrants surveyed that report to have ever had a partner or a child abroad while being in Portugal and the proportion of those who applied to family reunification. Only a limited number of surveyed immigrants were or are separated from their families (around 16% of the total sample). Applications towards reuniting with children are more frequent than those directed to bringing in the spouse/partner. Although the sample had around 40% of single immigrants (ICS, 2012: 54), reflecting a young and active immigrant population of a recent immigrant country such is Portugal.

Table 6.8. Immigrants surveyed in Portugal that applied to family reunification of partners or children living abroad

Family member	Ever had family member abroad (% of total number of respondents)	Applied to family reunification (% of those who had family member abroad)
Spouse/Partner	189 (15%)	71 (37.6%)
Children	369 (29.3%)	144 (39%)

Source: ICS database <http://www.immigrantsurvey.org/> (authors calculations)

According to Table 6.9, the most frequently stated motive for not applying is the incapacity to fulfil the requirements (48%). Still, the weight of other options is not negligible. Despite this, the majority of applications are approved, as Figure 6.4 shows. Applications to reunite with children living abroad have a particularly high rate of success.

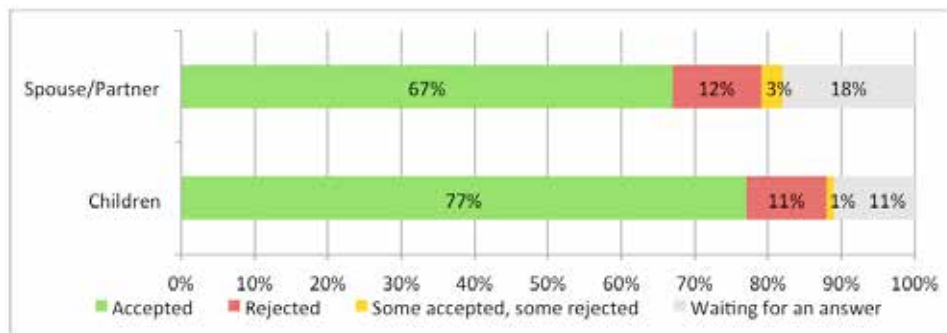
⁴⁷ A project coordinated by the Migration Policy Group and co-funded by the European Commission, Oak Foundation, Calouste Gulbenkian Foundation and King Baudouin Foundation. ACIDI, IP was the Portuguese partner of this project, while the fieldwork and the data analysis were conducted by Centro de Estudos e Sondagens de Opinião - Universidade Católica Portuguesa. More information on this project is available at <http://www.immigrantsurvey.org/>

Table 6.9. Reasons against family reunification*

Reasons	N (Percentage of total non-applicants with family members abroad)
Not want to live with me	93 (34%)
Cannot fulfil requirements	133 (48%)
Do not want to get through the procedure	73 (26%)
Do not want to settle in Portugal	55 (20%)
Total	277 (100%)

* Multiple coding was used. Respondents could provide more than one reason, so the sum doesn't match the total.
Source: ICS database <http://www.immigrantsurvey.org/> (authors calculations)

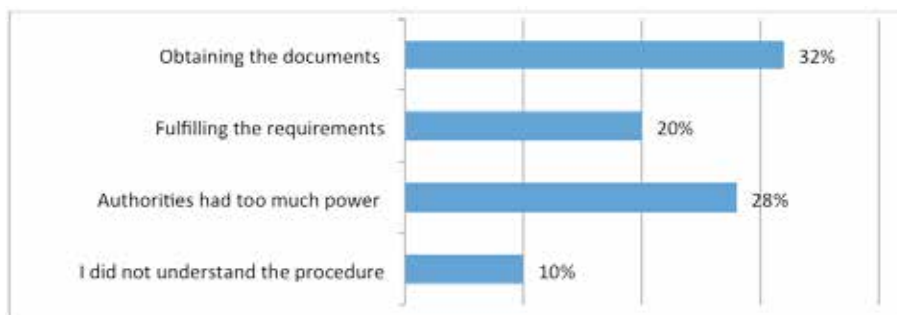
Figure 6.4. Success rate of applications



Source: Figure reproduced and translated from CESOP, reporting Portuguese data of ICS

Nonetheless the immigrants surveyed reported experiencing some problems or difficulties in the procedure of family reunification (Figure 6.5). Applicants (successful, unsuccessful and still in evaluation) reported as being their main difficulties obtaining the documents (nearly one third of applicants) and a perceived discretion by the authorities (28%). Unfortunately, we are unable to determine if respondents who declare this issue refer to the Immigrant and Borders Service (SEF), to Consulates or both. Finally, one fifth of respondents reported difficulties with the fulfilment of the requirements.

Figure 6.5: Declared problems with application in Portugal



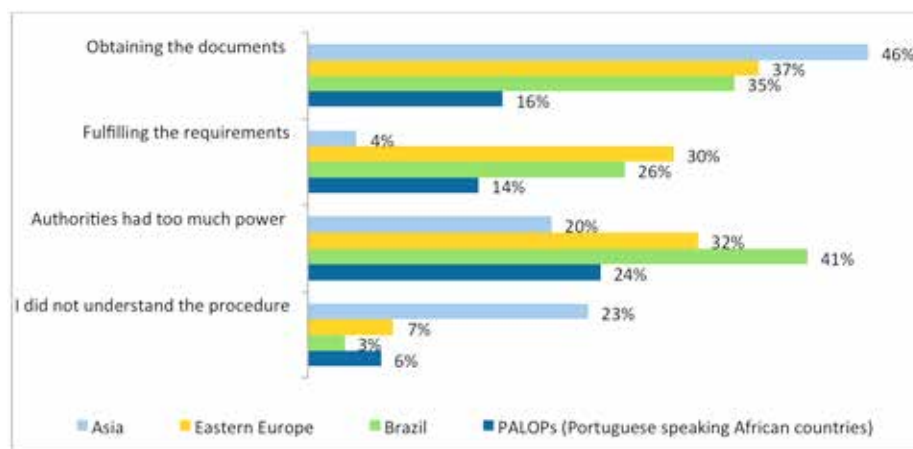
Source: Figure reproduced and translated from CESOP, reporting Portuguese data of ICS





A more detailed picture emerges if we analyse the geographic origins of respondents according to the same problems in family reunification procedures (Figure 6.6). The sense of discretionarily is comparatively more widespread among migrants of Brazilian origin. Obtaining documents and understanding the procedure is particularly difficult for Asians. Remarkably, only 4% of Asians state that they had trouble with fulfilling the requirements. Migrants from Portuguese speaking African countries (PALOP) are the ones reporting fewer problems with their applications. A considerable proportion of Eastern Europeans consider it difficult to obtain the documents (37%) and to fulfil the requirements (30%); nearly one third of them share the view that authorities have too much power (32%).

Figure 6.6. Declared problems with application per region of origin of immigrant



Source: Figure reproduced and translated from CESOP, reporting Portuguese data of ICS

Comparing this sample' outcomes with the problems identified before in this report related to the administrative practice of the law on family reunification, we could argue that Asians most reported problems might be linked with the conflicting decisions between SEF and MNE (which might cause their misunderstanding of the procedure – 23%) and/or the difficulties in obtaining documents (46%) linked with the necessary proofs of family relationships and of means of subsistence. As highlighted before (throughout the Ombudsman reports, cases taken to courts and interviews with immigrants), it is precisely in the Portuguese consulates in Asian countries (China and India) that most problems arise, either in the issuing of visas or in the request of complementary proofs or elements to fulfil the requirements of family reunification.

In contrast, in the case of Brazilians, as they do not need visa to get into Portugal, the reported difficulty on the “too much power of authorities” (41%) might be more connected with SEF. As stressed before, Raposo and Togni (2009: 161) reported that SEF has been targeting Brazilian immigrants with suspicious of abuse of right linked to marriages of convenience with Portuguese citizens.

On the other hand, Eastern Europeans difficulties in fulfilling the requirements (30%) might be linked with the year of request of family reunification. Eastern Europeans mainly arrived in Portugal in the end of the 1990s with tourist visas, regularising their situation with a one year permit after getting a labour

contract. As explained before, the holders of these permits were inhibited of family reunification until 2003 and until 2007 they and their family members had limited rights in Portugal.

These data will be further analysed in next chapter regarding the perceived impact of reunification in respondents' integration.

6.4. Conclusion

To a better understanding of the effectiveness of family reunification in Portugal and of the laws that frame this right, it would be necessary to have access to certain indicators: (a) the total number of applications, (b) the number of refusals and (c) the number of family reunification permits issued. As highlighted in this chapter, the only data put available in a regular basis by MNE and SEF are the data about the visas and permits issued for family reunification or family formation. To have an estimate of family reunification refusals we analysed the notifications of SEF to ACIDI (foreseen in the immigration act) about refusals of family reunification to third country nationals. However there are no available data about the total applications to family reunification per year that would allow, based on differentials with the total permits issued, a fundamental analysis about the success rate of this right. Still, with the data that we accessed some interesting conclusions are extractable.

The less favourable economic conditions of Portugal and the decrease of employment opportunities over the last years seem to have had an important impact on family reunification. MNE and SEF data show in absolute terms a decline in the number of visas and residence titles issued for reasons related to family reunification and formation, going along with the general tendency of decrease of the total visas and permits issued. However, taking the number of residence permits as a whole, the number of permits due to family reasons has actually increased its importance. Compared to the 32% reported by the OECD for 2004/2005, by 2011 entrances for family reunion accounted for around 58% of all permits issued to TCNs. This figure approaches Portugal to its European migration counterparts.

Data from SEF show that Brazil is by far the country of origin (or, if already in national territory, framing their presence through family reunification) that contributes more in absolute terms to the total of permits granted for family reasons. Still, other nationalities show a greater share of family members of TCNs coming to Portugal in their total of new arrivals – which is especially highlighted in the case of Ukrainians and Chinese.

The mitigated difference between countries of origin of family members of TCNs and EU sponsors reflect mainly the antiquity of immigrant populations' flows in Portugal. With the recent upsurge of "new" Portuguese citizens (mainly from countries with historical links to Portugal) comes an overrepresentation in these countries' share of the origin of family members with EU sponsors (that mostly include Portuguese nationals). Our interviews showed a similar trend, with some of the foreign born interviewees who applied to family reunification as TCNs acquiring Portuguese citizenship over the course of the process. The recent trend of mixed marriages should not be overlooked either.





Chapter 7. Impact on Integration

This chapter addresses the question of whether (and to what extent) family reunification fosters integration through the analysis of both quantitative and qualitative data. Integration is a protean concept, not only at the policy and academic levels but also among the general public. For that reason when dealing with it we should keep in mind different conceptions may frame the answers of individuals.

Quantitative data about the impact of reunification in society (and in integration, for that matter) are scarce. Furthermore, as reported before, family reunification in Portugal does not impose integration requirements. Portuguese Law exempts family members from taking integration or language tests and follow up inquiries are not conducted; furthermore, the available records of enrolment at language courses in “Programa Português para Todos” (Portuguese for All Programme) do not allow us to differentiate among the visas held by its beneficiaries.

Also, there is a lack of evaluations of the impact of family reunification framework in Portugal. Given this scenario, other sources of information were analysed. Hence, immigrants’ responses in Portugal to the Immigrant Citizens Survey, regarding family reunification and/or impacts of family reunion in family life and social integration, were analysed. Concerning qualitative testimonies, in addition to excerpts collected from the interviews and the focus group, some evidences were used from a recent qualitative Eurobarometer about, among other themes, Europeans and third country nationals perceptions on how important would be a non-EU migrant to bring the family with him/her and how that could be positive or counter-productive to integration in the member state.

7.1. Past evaluations of family reunification and its impact on integration

Evaluations that deal specifically with the practice of family reunification and its impacts in the integration of immigrants in Portugal are scarce. The exception is the work coordinated by Lucinda Fonseca and published in 2005. The authors of this research conducted legislative analysis, interviews and a survey of immigrants. Based on the data collection and analysis, the authors advanced a set of recommendations regarding the legal framework then in force:

- 1) putting away the distinction between family reunion and family reunification;
- 2) a clearer definition of the status of “non-minor dependent descendent”;
- 3) a more detailed explanation on the eligibility of de facto partners;
- 4) removing restrictions in the access to the labour market of spouses and partners of holders of specific types of residency titles;

Most of these recommendations were incorporated in Law 23/2007. The last recommendation is particularly relevant, since it is related not only to the imposition of discrimination but also to the practical impact on economic integration of the family. “Allowing spouses to legally work would prevent some situations of exploitation by employers and other members of the family” (p.220). This issue has been tackled by Law 23/2007. One aspect that persists and that our interviewees and workshop participants stated as relevant is the need to clarify the provisions regarding the reunification with non-minor dependents.

On the other hand, the already mentioned ICS questionnaire also addressed the impact of family reunification in several dimensions of the migrant's life. Respondents were asked if reunification had helped them a) getting a job or improving their job or business, b) getting a better education and life for their children or family members, c) getting involved in their local communities (school, associations, political activities), d) feeling settled in Portugal, and e) having an easier family life. This part of the questionnaire was only applied to the 120 immigrants surveyed in Portugal whose applications to family reunification were completed and successful.

Table 7.3. Impact of family reunification in migrant's and family members' lives

	Did reuniting help you get a job	Did reuniting help you get more education	Did reuniting help you get more involved	Did reuniting help you feel more settled	Did reuniting help you have an easier family life
Helped a lot	18 (15%)	18 (15%)	36 (30%)	67 (55.8%)	102 (85%)
Helped a little	29 (24.2%)	16 (13.3%)	21 (17.5%)	29 (24.2%)	12 (10%)
Not helped at all	74 (61.7%)	85 (70.8%)	62 (51.7%)	24 (20%)	6 (5%)
Don't know	0 (0%)	1 (0.8%)	1 (0.8%)	0 (0%)	0 (0%)
Total	120 (100%)	120 (100%)	120 (100%)	120 (100%)	120 (100%)

Source: ICS database <http://www.immigrantsurvey.org/> [authors' calculations]

Based on these results, it is possible to conclude that aside from "easing family life" (an evident consequence) the impact of family reunification is more significant when it comes to "feeling more settled". Although this may be a rather diffuse notion, more than half of respondents affirmed that their family reunification helped a lot towards it. If we consider civic involvement, arguably a more tangible dimension of integration, then the effects of family reunification seems to be mixed. On the one hand, reuniting seems to produce a more significant impact in civic involvement as compared to that in the educational and professional spheres. Still, more than half of respondents state that family reunification did not help at all in that regard.

7.2. Family reunification and integration: qualitative analysis

7.2.1. Integration and family reunification: general public opinion

In a recent Qualitative Eurobarometer (2011:59), participants (including both EU and non-EU nationals) were asked about how important they thought it was for a non-EU migrant to bring the family with him/her and how that could be positive or counter-productive to integration in the member state. The participants from Portugal mainly referred positive aspects: the general public stated that immigrants should be allowed to bring their families with them because that "*creates a more homely, secure, happy environment (emotional stability) – migrants are likely to feel better and more self-confident which is better for integration*" (Eurobarometer, 2011:60)

These results mainly confirm other positive outcomes that Portugal has been having in other Eurobarometers surveys about immigrants and immigration in general, despite the economic stagnation and crisis it is dealing with. According to another 2011 Eurobarometer survey (75), for example, only 3% of the surveyed Portuguese considered that immigration is a EU 'problem' and 0% considered that is a pro-





blem that Portugal is facing in at the moment (compared to 20% and 12% respectively for UE27 average), with the economic situation (47%, when to 33% for UE27) being the most important topic of concern in Portugal.

Hence, for the general and average public of Portugal it is easily understood and claimed that family reunification is beneficial for the integration of immigrants. Furthermore, as reported before, policymakers have been defending exactly that, especially since 2007 with the generalization of the right to family reunification to all immigrants regardless of the time of staying in the country.

Both action plans for immigrant integration defined since 2007 have also foreseen measures targeting family reunification and thus acknowledging family reunification as a step for integration in Portuguese society. In the same qualitative Eurobarometer, questioned about the importance of Family Reunification, non-EU migrants also concentrated their answers in the positive aspects of bringing their families with them – *“the provision of reassurance / comfort / potential barrier against isolation – emotional support / self-confidence”* (Eurobarometer, 2011:61).

7.2.2. Integration and family reunification: interviews and focus group

The tables and figures based on the ICS data constitute an approach to the measurement of the effect of family reunification in the perceived integration of migrants in Portugal; however, dealing with integration inevitably brings into light the existence of different notions of this concept. Some of our interviewees straightforwardly linked integration with personal wellbeing. This, in turn, supposed the right to work and holding a family together.

For a Chinese woman interviewed that is still waiting to reunite with her child, integration is linked with wellbeing, which, in her view, supposes having a work and the right to a family. Talking about how the wait has become a burden in her life: *“My daughter should live with us – no family should be tore apart at any circumstance, and she was even born here [and then went to China]. We can’t wait anymore”*.

Other interviewees broadened the scope of integration, relating it with the interaction with society writ large. For instance, two of the interviewees mentioned donating blood as an evidence of integration. One of these interviewees, a woman from Brazil, said that that she wanted to be more integrated, for instance by voluntarily taking care of old people. According to her conception, integration was also about *“us helping out each other, especially the needy and the vulnerable”*.

An immigrant born in Guinea-Bissau, who now has Portuguese citizenship, said that integration was intrinsically linked with “knowing one’s duties and rights”. For that matter, “language is the first skill that fosters integration. You have to know how to express yourself and communicate”. He then detailed his views on integration: “Integration means feeling well, being accepted and respected by others. Different cultures should be respected. The Bissau-Guinean people and the Portuguese one have different ways of being. But a Bissau-Guinean living here must mix some things from his culture of origin and that of Portugal”.

These different definitions influenced migrants' responses about the extent to which they and their family members were integrated in the country.

For a Brazilian woman that reunited with her child (who was brought up in Portugal), integration is not merely an economic process: *"We are totally integrated in this country"*, she said. A trip to Brazil made this even clearer: *"Last year I had to go to Brazil to solve some problems there. I took my son with me and he could hardly stand it, those were the most depressing months of his life"*.

An immigrant from Moldova defined integration as *"having the right to work and feeling one of their own [Portuguese]"*. Asked if he feels integrated he replies that *"I'm treated like a Portuguese, I don't find any differences (...) I have the same rights and obligations, I have a job, I think I managed to integrate."* Notwithstanding his perceived success, his tone changes when speaking about his spouse's degree of integration: *"My wife, well, not so much [integrated], because she doesn't have a job (...) My wife is a highly specialized obstetrics nurse, but unfortunately she can't have her diploma recognized. It's a shame if she has to start studying all over again"*.

A Portuguese citizen born in Cape Verde that was interviewed for the purpose of this project also linked integration to having access to certain rights. She stated that, aside from being a way of legalizing the status of the family members, family reunification provides access to social benefits: *"we can claim a 200€ monthly support from Social Security. Also, she's [her mother that was reunited with her] exempted from paying medical care, now"*

An immigrant from Guinea-Bissau explained that he felt integrated, but *"not totally. I would say 90%."* Asked about the missing 10%, he added that *"those of us who came from Africa, like me, who studied here and work here, always feel that something is missing: the compromise to go back to my country and contribute towards it"*. Regarding his wife and children, he said *"they are now going through a process of integration. They've been here for one year, so I cannot say they are fully integrated. Nowadays I have to explain some things to my wife, for instance questions about work"*. In his opinion it is necessary to know Portuguese culture and the Portuguese people.

None of the interviewed migrants mentioned integration in a more political sense, for instance, by the deepening of democratic practices or with the involvement within associational networks.

These different perspectives on integration are linked with the importance attributed to the possibility of family reunification. According to the immigrant from Guinea-Bissau, *"family reunion is a great thing. It is very complicated for an immigrant to have his/her family members abroad. There are tough times for an immigrant, even more so if you're all by yourself. I've seen people dying with their family members in Guinea-Bissau, and it is very sad. I've been sick myself and I didn't have any help; I had to call a taxi to go to the hospital... Now it is different"*.

Family reunification was indisputably a tool for integration among all of our interviewees. However, one of them declared that it did not suffice to feel totally integrated: *"I'm not integrated, not at all, because I*





don't have either time or opportunities". In her view, she has to work too much without being adequately compensated – socially or financially: "I would like to work in daytime and study at night, but I simply can't: my work is stressful and pays dreadfully. I really needed some type of support in order to balance work and study, so there could be more possibilities for me in this country." This lack of perspectives has led her to regret coming to Portugal: "I'm not able to do what I had envisioned. I'm starting to think that I have lost four years of my life."

The focus group brought additional perspectives to the discussion on integration and how family reunification may affect it, positively or not.

Oleg Bochenco, a representative from Centro Cultural Moldavo, added that besides the personal and family levels, the State should think of additional benefits of reunification: *"creating barriers to family reunification can only generate people without logic and a State without logic. If a migrant has his/her family abroad, he will be more likely to send most of his money away from the country where he earned it; so it is in the interest of the State to provide the opportunities for migrants to rejoin their families"*.

According to Timóteo Macedo, the president of a NGO that work to immigrants in Portugal, *"integration is a slow process, one that depends on the migrant's will. It's obvious that people living in family will be more receptive to develop their sense of belonging, their commitment and their citizenship. That is what I mean when I talk about integration, I do not talk about allegedly humanistic laws that allow migrants to be apart from society – that is, ghettoized"*. For this stakeholder, a family is an irreplaceable asset: *"a family can be an instrument of inclusion, a factor for overcoming difficulties. We must look at its positive side: together the members of a family can join their forces and to prevail over the challenges that life poses (...) Family is always a positive factor and should always be treated with that in mind"*.

7.3 Conclusion

The importance of family reunification is consensual among migrants, native Portuguese and political parties in the Parliament. Surveyed immigrants stated that the impact of family reunification was not so much at the economic or educational level but instead at the somewhat elusive perception of "feeling more settled". Interviewed migrants for the purpose of this report stated complementary views on what integration means. Background differences, personal idiosyncrasies and the time spent in Portugal may explain the diverse perspectives they assumed. However, for most of them, successful or not, with complicated or smooth processes, family is an essential part of their lives; having their family members abroad, on the other hand, is seen as a source of anxiety and, often, of additional expenses.

Cases where migrants (or they descendants) already living in Portugal applied to family reunification were also analysed. In such cases, when the application is refused or takes a long time to be evaluated, anxiety and a decrease in wellbeing are caused not by physical distance but instead by the consequences of going through the process and the time consumed waiting. Even if migrants themselves do not put it in these terms, we can conjecture that integration is probably hindered in these circumstances. This perception was reinforced by the statements made by civil society representatives in the focus group.

Chapter 8. Conclusion

Over the last decades, Portugal has gone through considerable shifts in its migratory profile. Being a country of recent immigration, family reunification is not as important for the global inflow of migrants as in older destination countries across Europe. Still, Portugal has defined several policies targeting immigrants' family reunification in an integration perspective, especially since 2007, to guarantee the right to live in family to all immigrants residing legally. This right was not only outlined in the immigration acts, but also, since 2007, in the Action Plans for Immigrant Integration. As such, family reunification was acknowledged by policymakers as an important aspect of immigrants' integration in the Portuguese society.

Although being acknowledged in several international reports that monitor integration policies⁴⁸ as one of the states with the best integration policies for immigrants, still Portugal did not defined integration pre-entry requisites for family reunification applicants (nor any other immigrant). This is a consequence of Portuguese governments underlying so far integration as a process that should be promoted exclusively in the national territory with implications both for immigrants and for the host society. Family reunification has been associated to the right to live in family, which should not be conditioned by policies or mechanisms that limit the entry of people (e.g. language and integration pre-entry tests).

The comparative assessment of immigration policies by MIPEX III highlights this Portuguese commitment towards guaranteeing the right to family reunification: out of 31 countries, Portugal scored in the first place in this thematic ranking with the best family reunification policies. Moreover, in a comparative study that analyses the transposition of Directive 2003/86/EC into the legal framework of nine member states, the Portuguese case also stands out as offering a more inclusive and liberal basis for third country nationals wishing to reunite with their family members (Pascouau and Labayle, 2011).

Despite the comparatively favourable framework for family reunification, recent years have witnessed the decrease of visas issued on that ground. This circumstance is not an outlier in the general universe of visas issuance. Such a decrease can reflect both the return of immigrants to their home countries due the economic situation of Portugal and, consequently, less interest in family reunification; and/or less income and consequently fewer possibilities to guarantee the fulfilment of certain requirements of the family reunification process (e.g. income, housing conditions).

Nevertheless, taking as a basis of comparison the overall figure of visas issued, the relative importance of family reunification has grown. Compared to the 32% reported by the OECD for 2004/2005, entrances for family reunion accounted for around 58% of all permits issued to TCNs in 2011. Portugal thus stands in a position more in line with other European countries where immigration with a long-standing background.

When it comes to countries of origin, Brazil leads the ranking of reunited family members – both within the framework for TCNs and that for Europeans. Other top countries of origin (for both frameworks) in-

⁴⁸ MIPEX, 2009 United Nations Report on Human Development, Handbook on Integration for policy-makers and practitioners of the European Commission, World Migration Report 2010 – The Future of Migration: Building Capacities for Change of the International Migration Organization.





clude Cape Verde, Guinea-Bissau, Moldova, Ukraine and China. No numbers are available regarding the number of residence permits issued to European Union citizens. The similar profile of origins of reunited family members may be explained largely by the acquisition of Portuguese citizenship by migrants and, to a lesser extent, to mixed marriages.

As described in this report, the legal framework for family reunification in Portugal has not been static over the past ten years. Quite the contrary: some significant changes have affected the framework for family reunification, especially concerning third country nationals.

The Portuguese approach to family reunification has been marked not only by the need to adapt to its own evolving migratory profile but also to the imperative of conforming to a broader European context. The Directive 2004/38/CE was transposed in 2006, establishing the free circulation and residency of EU citizens and their families, and the Directive 2003/86/EC, on family reunification of third country nationals, was transposed into the national Portuguese law in 2007.

Portugal simplified in these two laws the legal framework on family reunification that applies to the four groups under analysis in this report: European Union (EU) nationals, Portuguese, third country nationals (TCNs) and refugees. The 2006 legal framework applies to EU citizens (including Portuguese nationals) and their family members, regardless of their nationality. The 2007 immigration act specifies the right to family reunification of third country nationals and refugees.

Concerning the family reunification of **Portuguese and other Member States' citizens** the framework has been more stable. Compared to the Laws that regulate family reunification for TCNs, the legislation for Portuguese and other EU citizens (currently Law no. 37/2006) has not gone through such fundamental changes. Since 1998, the rules that shape the reunification of family members of EU citizens are explicitly applied to family members of Portuguese citizens as well. As was earlier mentioned in this report this Law carries advantages in comparison to the TCNs' framework. This is especially meaningful since much of the applicants through this framework are foreign-born individuals who acquired Portuguese citizenship after the changes brought by Law no. 2/2006, which regulates the access to nationality.

Despite showing fewer problems in its conversion into practice, Law no. 37/2006 is not exempt from criticism of criticism: one of the reported challenges is the necessity to prove that applicants actually live in Portugal. Portuguese or European sponsors living abroad cannot apply for bringing their foreign family members into Portuguese territory. This question can gain relevance in the near future, as the number of Portuguese (both "native-born" and "new citizens") leaving the country due to its economic situation increases.

Concerning **third country nationals**, Portugal transposed all recommended aspects of the directive, including those that were not compulsory for the Member States and did not adopt any of the possible limitations (option clauses) since they were against the Portuguese Constitution and the European Convention of Human Rights. In some cases, Portugal went further than what was recommended, for instance by not requiring a minimum time of residency before applying to family reunification or allowing family reunification not only to spouses/partners and minor children, but also for dependent ascendants and descendants above 18 years old. Also, Portuguese law has foreseen that immigrants

may ask for family reunification to family members that in fact are already in Portuguese territory (as long as they entered legally), which was described as “a very liberal approach” (Pascouau and Labayle, 2011: 54).

Different pathways lie ahead of European (and Portuguese) citizens trying to reunite with their family members and TCNs in the same situation. In terms of eligibility, the Law foresees that the descendants of Europeans can be up to 21 years old, as compared to a limit of 18 years old (unless they can prove they have student status in Portugal) for the children of TCNs.

At the procedural level, some differences stand out. Housing requirements are absent for Europeans, as is the need to prove legal entry into the country, should the application be conducted with the family member already in Portugal. The veracity of family ties can also be submitted to an increased scrutiny in the case of TCNs in opposition to family members of European Union citizens. TCNs and their family members must pay considerably higher fees not only for applying but also for renewing their permits. The residency card attributed to a family member of a European Union citizen has a longer validity (5 years) and carries another important consequence: its holder may move freely across the territory of other European Union Member States, just like a European Citizen. Finally, the Law is stricter regarding the expulsion of the territory of family members of TCNs.

As for **refugees**, their inflow to Portugal is marginal. If refugees want to bring their family members into Portugal, the general framework applies, though the Law contains special provisions exempting them from presenting evidence of means of subsistence and lodging facilities. The Law also takes into consideration the eventual difficulty in presenting documents attesting the declared family ties.

The 2007 Immigration Act, with revisions of 2012, offers an improved framework to third country nationals who wish to reunite with their family members when compared to the previous legal texts. Until 2007 a minimum period of staying in the country (one year) was required. Also, a time limit for the evaluation of each application was not set in law; only in 2007 was the immigrant and border control police required to decide in no more than six months. After that period, the application is tacitly approved.

Furthermore, prior to 2003 in order to apply for family reunification, a third country national needed to have “resident” status. Given that various types of permits were foreseen, holders of one year permits were automatically excluded from applying to family reunification. The family members eligible for reunite were the spouse (matrimony was required), dependent children (up to 21 years old) or adopted children, parents of the resident or of his/her spouse, and underage siblings (provided that they were under his/her custody).

In sum, the achievements of Law no. 57/2007 were welcomed by scholars working on family reunification: “*We are particularly heartened by the new immigration law approved by the Portuguese Parliament on 10 August 2006 which came into force on 3 August 2007. It made significant strides towards improving family reunification in Portugal*” (Fonseca and Ormond, 2008: 109). Some of these advances were also echoed by stakeholders in the focus group, while other improvements were signalled. According to Timóteo Macedo, the previous Law allowed a “higher degree of discretion to SEF”; for Flora Silva, the present Law has the advantage of recognizing de facto partners as eligible for family reunification.





However, this report also clarified how family reunification procedures are implemented in practice, both analysing the institutions involved (its competences and discretion) and how rules and requirements to family reunification are implemented, highlighting several challenges and problems that persist. As reported in chapters 4, 5 and 6, third country nationals who wish to bring in their family members may face significant hurdles: means of subsistence can be difficult to achieve; the scarcity of formal job contracts in a climate of economic crisis implies additional difficulties for proving one's income; proving family links or the legal guardianship can be undermined by the unavailability of documents. Additionally, the more mentioned obstacle is the inconsistency of decisions within Portuguese authorities. In several cases (some of which affecting immigrants that complained to the Ombudsman or went to court) the immigrant and border control police (SEF) approved an application that was subsequently further analysed (sometimes indefinitely) by a consulate. This problem has disproportionately affected individuals according to their origins (e.g. Asians are particularly vulnerable to this).

Some additional drawbacks were identified by stakeholders during the course of this research: the high prices paid to obtain and authenticate required documents; the low age limit of dependent children eligible for family reunification; and a limitation imposed on reunited ascendants that are inhibited from working.

The differences between the two legal frameworks are also reflected in the cases taken to courts. Most of the processes regarding the reunification of family members of TCNs are related to discrepancies between decisions made by SEF and some consulates. As highlighted before, some Portuguese officials question the veracity of the invoked family links, and thus refuse the issuance of a visa to the family member. A recent decision by the Supreme Administrative Court was particularly relevant in this respect as it acknowledged family reunification as a single process, even attending to the involvement of two different institutions of the Portuguese State – SEF and MNE. Although the more recent decisions of the European Court of Justice (e.g. Zambrano, McCarthy, Dereci) did not have much impact in Portugal and it is observed some discrepancy in decisions and arguments used in the cases related to family reunification taken to administrative courts, immigrants have won in several cases, thus confirming their right to live in family.

As for EU citizens, including Portuguese citizens, the cases taken to courts tend to be linked to suspected marriages of convenience. Despite these differences, we should keep in mind that a significant proportion of reunification under the EU family member framework is sponsored by citizens who recently acquired Portuguese citizenship. Since we did not find any records of court cases in which these “new” Portuguese are refused the right to reunite with their family members who live abroad, we may assume that consulates do not question their reported family links as frequently as they do in the case of sponsors with a third country citizenship.

Measuring the **impact of family reunification in integration** turned out to be tricky. Portugal does not impose integration (or language) tests to sponsors or beneficiaries of family reunification; for that reason, the assessment of the success (or failure) of reunification as a catalyst for integration was limited to the scope of qualitative data gathered and of immigrant polling studies. The interviewees stated different conceptions of integration: for some of them integration was strictly linked to wellbeing, while others developed some ideas about the importance of contributing towards a better society. For all of them,

however, having their family with them was a precondition for integration. Migrants repeatedly stated that family was an essential factor for them, and that it helped them to feel integrated. Participants of the focus group also highlighted the positive impact of family reunification at various levels of migrants' lives.

The analysis of the Immigrant Citizens Survey' data showed that the impact of family reunification in integration varies depending on the assumed conceptions of the latter. The majority of migrants who were granted family reunification consider that it allowed them to "feel settled" and "have an easier family life". Family reunification seems to be less important in obtaining (better) jobs or advancing one's education, but civic engagement seems to be reinforced by it. Even if the outcomes of the process are usually positive, some hurdles were identified by respondents: authorities are perceived as having too much power; requested documents can be difficult to obtain; and meeting the requirements can be challenging.

General public opinion surveys also exhibit a remarkable consensus among Portuguese people that immigrants are entitled to living in family and bringing their relatives to live with them. It is also interesting to notice that family reunification, even more so than immigration in general, is not a controversial topic within the Portuguese political party system. Several articles of the Immigration Law framing family reunification were approved by a considerable margin of seats. At the public policy level, family reunification is uncontestedly seen as an element of integration, having been included in both Plans for the Integration of Migrants (PII). These cross-sectional documents frame a combined approach between different Ministries to enhance the integration of migrants. The second edition of PII, which will be in force until the end of 2013, foresees the purpose of "simplifying the Family Reunification process", a measure that involves SEF, the Ministry of Foreign Affairs (responsible for the consulates) and the Ministry of Education (which is responsible for attesting the enrolment of migrant children).

In the near future, no major changes are expected for the prospects of family reunification, both for third country nationals and European/Portuguese citizens. The recently approved Law no. 29/2012 leaves the framework described for TCNs practically untouched, which creates probably no major changes in the administrative practice of the law analysed in this report. Furthermore amendments are not expected to Law no. 37/2006, the legal framework to EU nationals and their family members. Some of the questions to follow in the near future are the impact of the Portuguese economic climate in the number of applications to family reunification, the administrative practice of the law and/or how public authorities will proceed (notably the consulates), and the evolution of decisions in the judicial system in family reunification cases.





Chapter 9. Bibliography

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ANNEXE I

	Third-country nationals	EU Member States Citizens (including Portuguese citizens)
Legal framework	Foreigners Law 23/2007 of July 4 (Immigration Act), revised by the Law 29/2012	Law N° 37/2006 (free circulation and residency of EU citizens and their family members)
Title of residence	<ul style="list-style-type: none"> - Valid residence permit (for one year or longer): entitled to family reunification with family members living abroad, provided that they have lived with the applicant in another country, or that they are his dependants, or that they are living with him, whether the bonds were formed prior to or subsequent to the entry of the resident into Portugal. (Art.98 §1 and 2). - Student Residence Permit, holders of residence permits for study, unpaid professional traineeships or voluntary work, applications for family reunification are limited. - Refugees are entitled to family reunification with family members living in national territory or abroad (Art. 98). 	EU citizens and their family members, nationals of the European Economic Area and Switzerland, their family members and the family members of national citizens, regardless of their nationality.
Time/years of residence	The law does not establish a minimum period. ICNs can apply for a residency permit and for family reunification at the same time.	The law does not establish a minimum period. EU nationals can apply for a residence permit and for family reunification at the same time.
Relatives that can benefit from family reunification	<ul style="list-style-type: none"> • The spouse or the de facto partner whether he/she is inside or outside national territory, provided that the relationship is recognised under the law; • Children: who are minors or incapacitated and are dependants of the couple or one of the spouses + adult children who are dependants of the couple or one of the spouses, if they are single and are studying at an educational institution in Portugal; • Minors adopted by the applicant or the spouse; • Direct 1st degree ascendants (parents) of the resident or spouse, provided they dependant on the applicant; • Minor siblings under custody of the resident. 	<ul style="list-style-type: none"> • The spouse of a EU citizen • The de facto partner who, provided that the relationship is recognised under the law • Direct descendant under 21 years old or under de dependency of a EU citizen, the spouse or partner • Direct ascendant dependant on the applicant or spouse/partner
Requisites	<p>Relative residing outside national territory or living in Portugal, if relative entered the country legally and be dependent on the applicant or be living with the applicant:</p> <ol style="list-style-type: none"> 1. Valid Residence Permit 2. family relationship and documents. (Certified evidence of the claimed family relationships; Certified copies of the identification documents of the applicant's relatives) 3. Criminal registry (relative's consent to a criminal record check by SEF, in cases where the relative has resided within national territory for more than one year over the last five years; criminal record certificate from the relevant authority in the relative's home country and from any country where he resided for more than one year). 4. income (evidence of the availability of housing; evidence of sufficient means of subsistence to provide for the family); 5. to dependent ascendants or descendants, documentary proof that they are dependants. 	<p>To issue the residency card, the following documents are required:</p> <ol style="list-style-type: none"> 1. Valid passport; 2. Document proving family relation to EU citizen or of partnership as in 2(e)(ii) 3. Certificate of registry of the EU citizen with whom they will reunite; 4. to dependent ascendants or descendants, documentary proof that they are dependants of the EU citizen, document issued by the responsible body in the country of origin or a certification that s/he is under the dependency of the EU citizen or that s/he live in co-habitation, or proof of serious health problems that require the personal assistance to the family member of the Union citizen. 5. Sufficient means of subsistence – citizen's resources cannot be inferior to the level of income which qualifies for State aid
Type of residence provided to the relative	<p>Residence permit for the same duration as the applicant:</p> <ul style="list-style-type: none"> - If the applicant's residence permit is temporary, the relative will be issued with a renewable residence permit with the same duration. - If the applicant's residence permit is permanent, the relative will be issued with a renewable residence permit with a two-year validity period. - Two years after the issue of the first temporary or permanent residence permit to a relative, and provided that family bonds continue, that relative shall be entitled to an individual residence permit. 	right of permanent residency after legal residing for a period of 5 consecutive years in Portuguese territory.





	Third-country nationals	EU Member States Citizens (including Portuguese citizens)
Rights acquired by the relative	<ul style="list-style-type: none"> - Spouses/Partners acquire the same rights as the sponsor (e.g. work, study, health...) which means benefiting from equal treatment in relation to the national citizens, without prejudice of admissible restrictions from community law; - Minor children acquire the right to study, health... - Dependent ascendants and descendants are not allowed to work, but gain the right to health care, study... 	<ul style="list-style-type: none"> - Family members of union citizens that enjoy the right of residency or the right of permanent residency in national territory have, independently from their nationality, the right to exercise a subordinate or independent professional activity. - Union citizens that reside in national territory benefit from equal treatment in relation to the national citizens, without prejudice of admissible restrictions from community law. - Family members of union citizens that have a third-country nationality benefit from the right above.
Timeframe for a response	Written notification within 3 months. If a decision has not been reached within this period, a notification explaining the case will be sent. The lack of decision within 6 months shall be taken as approval of the application.	
What to do next when the application is approved	SEF will send the approval decision within 8 days, and advise the applicant that the relative should contact the diplomatic mission or consular authority in their area of residence within 90 days, to formally apply for the issue of a residence visa. If the relative is already in Portugal s/he will be issued with a residence permit for the same duration as the applicant.	
Cases that can be refused the application	<ul style="list-style-type: none"> a) When the applicant does not have adequate housing or means of subsistence; b) When the relative has been prohibited entry into national territory; c) When the presence of the relative within national territory constitutes a threat to public order, public security or public health. 	The right of free movement and residency of union citizens and their family members, regardless of nationality, can only be limited by public order, public security or public health reasons, in the terms of the present chapter.
What can be done in case of refusal	<p>Can challenge the decision before a court. Will be notified of the decision as well as the reasons for the decision, the right to appeal the decision and the deadline for making an appeal.</p> <p>The appeal shall be made to an Administrative Court. The fact of an appeal does not suspend the operation of the initial decision. The appeal only suspends the operation of the initial decision in the following cases:</p> <ul style="list-style-type: none"> - when the family members are already within national territory; and - the rejection decision is based exclusively on the grounds that the applicant cannot provide adequate housing and means of subsistence. 	Can challenge the decision before a court. The appeal has suspensive consequences on the decision.
Situations that made citizens lose family reunification	The residence permit issued under family reunification will be cancelled if the usual circumstances leading to cancellation apply. In addition, the permit will be cancelled if the marriage, non-marital partnership or adoption was entered into solely for the purpose of allowing the person to enter or reside in Portugal.	Death or the departure of a Union citizen from national territory, as well as divorce, the annulment of marriage or the end of a non-marital partnership, does not necessarily indicate the loss of residency rights for family members, regardless of their nationality. The permit will be cancelled if the marriage, non-marital partnership or adoption was entered into solely for the purpose of allowing the person to enter or reside in Portugal.
Directive transpositions	Portuguese law did not adopt any of the possible limitations (option clauses) in the transposition of the Directive since it goes against the CRP and the European Convention of Human Rights (Legispedia SEF).	37/2006 Law (free circulation and residency of UE citizens and their families) National Transposition of the Directive nº2004/38/CE of the European Parliament

ANNEXE II. Residence titles issued per type of family tie to family members of non-EU citizens.

Nationality of the family member	2008				2009				2010				2011			
	T (1)	S (2)	C (3)	O (4)	T (1)	S (2)	C (3)	O (4)	T (1)	S (2)	C (3)	O (4)	T (1)	S (2)	C (3)	O (4)
Brazil	6004	469	262	5273	4505	330	313	3862	4847	370	357	4120	4161	271	496	3394
Cape Verde	2406	91	216	2099	1275	67	229	979	1304	79	160	1065	1797	97	298	1402
Ukraine	2095	81	118	1896	1358	86	118	1154	1336	70	87	1179	1173	84	95	994
Moldova	1406	114	150	1142	838	94	81	663	642	55	62	525	944	98	93	753
China	1084	68	88	928	317	16	32	269	1030	92	74	864	538	31	76	431
Guinea-Bissau	989	35	61	893	681	86	86	509	522	41	56	425	615	20	67	528
Angola	934	36	83	815	577	25	48	504	616	29	38	549	259	53	39	167
Sao Tome and Principe	459	24	37	398	296	23	52	221	438	26	49	363	477	52	72	353
India	260	12	8	240	196	33	45	118	156	29	15	112	637	37	91	509
Guinea	163	15	35	113	81	6	8	67	131	19	23	89	151	27	25	99
Russian Federation	159	10	3	146	145	13	12	120	88	7	15	66	85	21	10	54
Morocco	114	12	15	87	141	14	18	109	84	13	19	52	117	19	19	79
Total	17086	1019	1120	14947	11035	848	1105	9082	11967	916	1013	10038	11931	951	1485	9495

Source: SEF

Note: (1) Total / (2) "Spouse / Partner" / (3) "Children (Minor/ Adult)" / (4) "Other family members". According to SEF, this category comprises not only "other family members" as earlier foreseen, but also those whose family tie is unknown. A substantial majority of cases fall under this category, hazarding the relevance of these data.





ANNEXE III. Residence titles issued per type of family tie to family members of EU citizens.

Nationality of the family member	2008				2009				2010				2011			
	T (1)	S (2)	C (3)	O (4)	T (1)	S (2)	C (3)	O (4)	T (1)	S (2)	C (3)	O (4)	T (1)	S (2)	C (3)	O (4)
Brazil	6.153	125	191	5.837	4.165	96	126	3.943	2.172	0	0	2.172	2.050	0	0	2.050
Cape Verde	773	21	62	690	1.042	20	59	963	752	0	0	752	819	0	0	819
Guinea-Bissau	716	4	7	705	587	6	12	569	484	0	0	484	703	0	0	703
Moldova	328	14	20	294	375	18	38	319	243	0	1	242	226	0	0	226
Ukraine	397	27	20	350	391	21	49	321	154	0	0	154	172	0	0	172
India	53	2	2	49	279	12	17	250	285	0	0	285	466	0	0	466
Angola	278	5	12	261	304	8	20	276	174	0	0	174	203	0	0	203
Sao Tome and Principe	119	1	10	108	204	3	19	182	155	0	0	155	208	0	0	208
China	155	6	13	136	252	37	21	194	28	0	0	28	21	0	0	21
Morocco	95	1	0	94	131	4	4	123	100	0	0	100	127	0	0	127
Guinea	45	2	1	42	92	3	8	81	63	0	0	63	249	0	0	249
Russian Federation	127	3	6	118	108	2	6	100	80	0	0	80	78	0	0	78
Total	10.183	220	358	9.605	8.926	264	410	8.252	5.511	1	1	5.509	6.297	1	1	6.295

Source: SEF

Note: (1) Total / (2) "Spouse / Partner" / (3) "Children (Minor/ Adult)" / (4) "Other family members". According to SEF, this category comprises not only "other family members" as earlier foreseen, but also those whose family tie is unknown. A substantial majority of cases fall under this category, hazarding the relevance of these data.

Over the past fifteen years Portugal has promoted several changes in the access of immigrants to family reunification that were interlinked with a significant progress in terms of integration policies. This report analyses the practice of the law, highlighting the hurdles and challenges that immigrants might face during the family reunification process in Portugal. The contact with immigrants, NGOs representatives, policymakers, lawyers and mediators helped to understand this reality.

This study was developed between 2011 and 2013 for the project “Family reunification: a barrier or facilitator of integration?”, co-funded by the European Integration Fund, Directorate B: Immigration and Asylum Unit, DG Home Affairs, of the European Commission.

Further details about the project at: www.familyreunification.eu