

COVID-19

Extraordinary measures applicable to Immigration

Decree-Law no. 10-A/2020, of 13 March
Dispatch no. 3863-B/2020, of 27 March

The exceptional situation caused by the outbreak of the disease COVID-19 imposed extraordinary measures in order to provide an effective and urgent response to this pandemic, the most significant being the limitation of circulation and the general duty to home confinement of all citizens, including the immigrants and all other foreign citizens currently staying in Portugal.

In this sense, in the domain of the regime applicable to immigrants and foreigners, the Government established several measures, of which should be highlighted the following:

Regularization of the Situation in Portugal of Foreigners with Pending Applications

1 - Who is covered by this measure?

All foreign citizens who have submitted applications under the Law no. 23/2007, of 4 July (Foreigners' Law), as well as under the Law no. 27/2008, of 30 June (Asylum Law), namely applications for granting or renewal of a residence permit, in any of its modalities, requests for family reunification or, even, asylum applications, refugee and subsidiary protection status, whose final decision is still pending, are covered by this measure.

2 - What does it mean to have a regular situation in Portugal?

All foreign citizens with applications pending before the Immigration Authorities will be, on a temporary basis, in a situation of regular residence in national territory, in order to be able to access a set of services and prerogatives.

3 - Is this regularization equivalent to the granting of a residence permit?

No. This measure is only intended to guarantee temporarily social protection rights and access to general public services to all foreign citizens with pending residence permit or asylum applications and that are currently in Portugal. This is not an automatic regularization and it does not replace a residence permit, so the pending application may later be approved or rejected, upon further analysis of all the documentation submitted with the application.

4 - How can I prove the regular situation in Portugal?

The regularity of your stay in Portugal will be demonstrated with any authority, service or body of the Government through the following documents:

- In requests made under articles 88, 89 and 90-A of the Foreigners' Law, a copy of the expression of interest or of the request issued by the registration platforms in use at the Immigration Authorities;
- In the remaining situations of processes pending with the Immigration Authorities, namely grant or renewals of residence permits either of the general regime or of the exceptional regimes, copy of the document proving the appointment in an Immigration Authorities' Office or of the receipt issued against delivery of the application.

5 - What rights are granted?

The following rights are recognized to all foreign citizens abovementioned:

- Obtain the National Health Service number and, thus, access to health care provided by public hospitals and services that are part of the National Health Service;
- Access to social support benefits, such as unemployment benefit, sickness benefit, parenting benefit;
- Execution of a lease for permanent own housing in Portugal;
- Execution of an employment contract with any employer and, consequently, admissibility of enrollment with the Portuguese Social Security;
- Bank account opening with any credit institution authorized in Portugal;
- Contracting essential public services, such as water, electricity, natural gas, telecommunications, internet, etc.

6 - What is the duration of this measure?

This measure is valid from the date of the declaration of the State of Emergency, that is, from March 18, 2020 and will be valid until being revoked after the pandemic crisis is over.

Validity of the residence cards expired or to be expired

7 - What can I do if my residence permit expires?

Pursuant to paragraph 1 of article 16 of Decree-Law no. 10-A / 2020, of 13 March, authorities and public administration services are obliged to accept, for all legal effects, the display of documents subject to renewal whose validity expired after February 24, 2020. This includes residence permits, which will remain valid until June 30, 2020.

We believe, however, that this measure will have to be readjusted given that the documents will be considered valid until June 30, but the appointments are only possible after that period.

8 - How to proceed if, due to the restrictions verified, I am unable to comply with the proof of permanence required to maintain my residence permit?

Under the terms of article no. 85 of the Foreigners' Law, the residence permit is canceled whenever the applicant, without any relevant cause, leaves the country in one of the following situations:

- If holder of a temporary residence permit, 6 consecutive months or 8 non-consecutive months, in the total period of validity of the permit;
- If holder of a permanent residence permit, 24 consecutive months or, in a period of 3 years, 30 months non-consecutive.

The absence of national territory, beyond the limits provided, must be justified by a special request to be submitted before the Immigration Authorities prior to the resident's departure from national territory or, in exceptional cases, after the departure.

If the application for renewal of the permanent residence permit is submitted after the expiry of the validity period, the applicant must submit in the application the proof of permanence or the proof of the reasons for absence.

We believe that the restrictions implemented due to the global pandemic, regarding the free movement of people, are enough to remove the deadline related to the minimum period of stay required and, consequently, achieve the non-cancellation of the residence permit issued.

9 - How to proceed if, due to the restrictions verified, I am unable to comply with the proof of permanence required to maintain my residence permit for investment activity?

In our view, Golden Visa holders should also be exempted from the minimum period of stay of 7 days in the first year and 14 days in the subsequent two-year periods, if they cannot travel to Portugal during the pandemic crisis. Alternatively, they should also be able to have to comply with that minimum period of stay at a later stage.

10 - My residence permit expires before June 30, 2020. How can I renew it?

Considering the provisions of paragraph 14 of article 63 of Regulatory Decree no. 84/2007, of November 5, the residence permit can be renewed up to 6 months after its expiry date, which means that, even if the effects of COVID-19 may be long-lasting, the right of residence does not expire before those 6 months are gone. However, this solution will inevitably constitute

an inconvenience to citizens who are national from countries that are not exempt from Schengen visas for regular entry into national territory.

Face-to-face appointments only for urgent situations

11 - May I schedule an appointment to collect the biometric data?

Given the need to reduce the risks to public health associated with face-to-face appointments, not only for Immigration Authorities officials and assistants but also for applicants, all Immigration Authorities' Offices are closed for any appointments since March 30, 2020 until July 1, 2020.

12 - Is there any exception?

By decision of the Regional Directors of the Immigration Authorities, which shall certify the urgency on the request, citizens who fall under one of the situations below, may have access to an urgent appointment:

- Citizens who need to travel or prove urgent need to be absent from national territory, for imponderable and urgent reasons; or
- Citizens whose documents have been stolen or lost.

It is also allowed to submit and register new applications for international protection, before the Asylum and Refugees Office.

13 - What happens to the appointments that were scheduled before March 27, 2020?

All appointments that were scheduled before March 27, 2020, are suspended. These appointments will be rescheduled from July 1, 2020, in chronological order.

14 - What happens to appointments scheduled after March 27, 2020?

Even though the measure does not seem to mention this specific situation, we believe that those appointments will also be rescheduled, starting on July 1, 2020, and in chronological order as well.

15 - How to request an appointment?

In case that your situation falls under one of the urgent situations abovementioned, it will be possible to request an appointment in one of the following delegations: Regional Directorate of Algarve; Regional Delegation of Portimão; Regional Directorate of Azores; Regional Directorate of Madeira; Regional Delegation of Porto Santo; Regional Directorate of Lisbon; Regional Delegation of Setúbal; Citizen's Bureau of Coimbra; Citizen's Bureau of Aveiro; National Support for the Integration of Migrants of Porto; and Asylum and Refugees Office.

Online service and submission of applications

16 - Will the online platforms of the Immigration Authorities continue to work?

All platforms, which already allow the provision of non-face-to-face services today, will remain fully functional, namely for renewal or extension, expression of interest, Golden Visa, issuance of certificate.

17 - Will the online visa requests continue to work?

Visa applications via electronic means are still possible through the e-Visa Portal, managed by the Ministry of Foreign Affairs, through which it will be possible to monitor the status of the request during its different phases.

E-Visa Portal: <https://pedidodevistos.mne.pt/VistosOnline/>

18 - What happens to the applications already pre-approved in the online portal for Golden Visa applications?

Applications will remain valid until it is possible to schedule the appointment and travel by the applicant and his family to a Delegation of the Immigration Authorities.

Issuance of passports

19 - What are the covered situations?

Only urgent issuance of passports will be allowed for cases of majeure force or other emergencies proven.

20 - How to apply for urgent passport issuance?

Only the Passport stores of Porto and Lisbon Airports remain in operation and the requests must be made through the email address gricrp.cc@sef.pt or through the Contact Center (for landline - (+351) 808 202 653; for mobile network - (+351) 808 962 690).

For further clarification or in case you have any specific legal concern related to the impact of COVID-19 on your application, please contact any lawyer from our Private Clients Department.

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