Mapping of policies affecting female migrants and policy analysis: the Portuguese case

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Introduction

As a new migratory space, Portugal presented until some years ago specificities distinguishing it from other European countries: one of the lowest rates of foreign population in the European Union; a new immigration pattern in the context of a typically emigration country; a very high number of immigrants connected to Portugal through its colonial past. This configuration is not found in any other south European country, despite the similarities among them.

Portugal encouraged the significant entry of Cape-verdians, contracted to work in public works and construction companies. This labour recruitment was made under the government of Marcello Caetano (end of 60’s-mid 70’s) to replace on one hand the local youth who were in to the military service in the colonies where a war was waged against the liberation movements and on the other the construction workers who emigrated to France and other European countries, before or after their military service (Cordeiro 1999: 3). The immigrants were employed particularly in the public works sector, the construction of the Lisbon’s underground, the development of the tourism structures in Algarve region and the public works in Oporto.

In fact, the context for immigration in Portugal has been profoundly transformed and diversified over the past decades: long considered a country of emigration, thanks to decolonization and entry into the European Union Portugal has become increasingly since the turn of last century a country of immigration. Portugal also received retornados – the Portuguese returning from former colonies, as well as the returning Portuguese emigrant workers. A major political event changed the patterns of Portuguese migratory flows: the Revolution on April 25th, 1974. This initiated the de-colonization process: Angola, Mozambique, Guinea Bissau, Cape Verde, São Tomé e Príncipe, in Africa, and East-Timor, in Oceania. In the 15 years following the de-colonization, a relatively significant number of immigrants coming from the Sub-Saharan Africa and more particularly from the so-called Portuguese-speaking African Countries (Países Africanos de Língua Oficial Portuguesa – PALOP) arrived drawn by employment opportunities in the building and public works sectors, as well as in industrial cleaning; qualified personnel from Europe, and both qualified and less qualified individuals from Brazil (Malheiros 2002). The first wave of Brazilian migration to Portugal in the 1980s was mainly made up of young and highly qualified professionals, such as dentists, publicists, engineers and doctors. However the flow of Brazilian immigrants changed during the 1990s, mainly because of the demand of the Portuguese labour market, and the immigrants became concentrated on the building and services sector (restaurants, cleaning and commerce). It is estimated that around 90 000 Brazilian immigrants are living in Portugal. Presently, on average, Brazilian immigrant women are young and work in cafés and restaurants, shops and the cleaning sector (Wall et al. 2005: 16-17).

While Portugal has been stabilizing its new democracy, the adhesion of the country to the European Economic Community in 1986 resulted in an increase of the economic growth conjugated with a weak labour supply. This has enabled and encouraged the increase of immigration. The building and public works sector has become structurally dependant on immigrant labour. The constant migratory flows have resulted after 1985 in irregular migration flows and a stock of undocumented immigrants. This group swell also with the asylum seekers fleeing from post-colonial conflicts in Angola and Mozambique, which had seen their asylum applications rejected. The number of these persons that were in illegal situation was estimated at 100.000 individuals in 1992 (Cordeiro 1998).

1 The author thanks Mirjana Morokvasic, Alexandra Carvalho and Christine Catarino for their contribution to this working paper.
2 Portuguese born in Portugal and their descendants.
3 Portugal is still characterised as a country of emigration as the Portuguese emigrate more or less temporarily in order to look for work in hotels and restaurants, or in construction (Moreira 2005).
4 This reconstruction period has favoured the fast growth of immigration, mainly after the reinforcement of the public works politics in the regions of Lisbon, Vale do Tejo and Algarve.
In the context of the European Union\(^5\), Portugal had to provide evidence of its security efforts to its partners concerning the management of the migratory flows. Therefore, the country had to modify its legislation regarding foreigners, in accordance with the rules imposed by the Schengen Space, but also (and before that) to manage the situation of all the illegal immigrants. Between October 1992 and March 1993, Portugal had its first huge extraordinary regularisation period.\(^6\) As this regularisation has not attained its objectives, later, in 1996, another extraordinary regularisation took place.\(^7\)

Finally, the end of the 1990’s until the present has seen the arrival of a new and massive migratory flow from Eastern Europe, mostly from the Ukraine\(^8\), Moldavia, Russia and Romania, alongside flows from other countries (China, Pakistan, etc.). The increase of this new migration was contingent to growth of illegality and poor living conditions, as well as some new phenomena associated to immigration, like trafficking in human beings and mafia networks bringing undocumented people to work in Portugal. However, the percentage of foreigners in Portugal has nevertheless remained relatively small. The resident foreign population in 1992 was 2 % of the population (Baganha et al. 2002: 78) and is currently 4,3 %\(^9\) in a country that, despite its participation in the Schengen area, still attracts workers in the construction sector (for Expo 98, Vasco de Gama bridge, football stadium construction and remodelling for Euro 2004, etc.), as well as in tourism, catering industry and cleaning sectors.

In addition to ethnic diversification, one of the most significant changes in the framework of Portuguese immigration is the increase in female immigration and the diversification of their marital status. We are seeing more and more women immigrating alone, whether single or divorced.\(^10\) This contradicts the traditional immigration model once prevalent in Portugal: essentially male immigration drawn by job opportunities in the building and public works sector, and women following in the context of family reunification. This was different from the Spanish case, where one could observe female migratory flows much earlier (Oso 1998).

This paper presents and analyzes the existing regulations, laws and social services for the integration of migrants and more accurately female migrants. A few major aspects can be discerned in public policy, and specifically in this country’s immigration policy and will be presented more or less transversally. **The first involves job flexibility.** Observers have noted that Portugal's development has occurred alongside or thanks to its substantial underground economy, namely in its service sector, in the context of persisting social inequality (the degree of inequality in the distribution of income continues to be one of highest of the EU), that particularly affects women (there is a greatest incidence of low income in the female population) and the low-wage workers, representing 11 % of the workforce and earning less than 2/3 of the median wage, in other words, €350,82 per month (PNAI 2003: 5). Subsequent years were characterized by internationalization and increased flexibility in the economy, the creation of seasonal jobs, the development of fixed-term contracts and labour precariousness (Célestin 2002). Immigrants take part in this process of labour flexibilisation, as a matter of fact in Portugal, the great majority of the immigrants constitute a cheap and flexible workforce

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5 Especially in the scope of the Schengen Space, for which the application convention should enter into force in Portugal on the 1\(^{st}\) January 1993.

6 Issued through the Decree-Law nº 212/92, from the 12\(^{th}\) October 1992.

7 Issued through the Law nº 17/96, from the 24\(^{th}\) May 1996.

8 The first major contingent of Ukrainian citizens arrived in Portugal at the end of the 1990s. The education level of Ukrainian citizens living in Portugal is, on average, higher than the Portuguese. They work in economic sectors and professions that have little relation to their professional experience or qualifications achieved in their country (Wall et al. 2005: 25).


The Portuguese government acknowledges its deficit of qualified and unqualified labour, the existence of a demographic deficit having been at once revealed and played down. Immigration has contributed to a rejuvenation of the population and played an important role in the growth of the portion of the population of active age (Rosa, De Seabra and Santos 2003) all within the framework of relaxed enforcement against emigration, and a lessening interest on the part of the Portuguese in jobs considered less qualified and of less social worth.

The second important aspect of public policy is the prevalent social construction of immigrants as workers by “dispensary systems” or preferential treatment. Immigrants who work and have contributed to social security benefit from the latest measures for acquiring valid residency permissions, unlike others. This, despite the country’s stated immigration policy, in line with Brussels, and set down in the Decree No. 34/03 of February 25th, 2003, and its conceptual framework for integration. This policy is organised along three lines: the regulation (involving favouring legal immigration taking into account Portugal’s economic needs, such as the institution of quotas by economic sector12); integration, and taxation (in the form of fighting illegal immigration).

The third aspect of the Portuguese immigration policy is in the guise of reciprocity, the preferential treatment given to the nationals of Portuguese speaking countries (entry, residency, naturalization, voting rights, etc.), a phenomenon currently in transition. The two extraordinary regularisation processes that took place in Portugal, in 1992 and 1996, for instance, were conceived especially for the illegal immigrants originated from Portuguese speaking countries, containing positive discrimination articles regarding these immigrants (Baganha and Marques 2001: 28). As Evelyne Ritaine rightly remarks, Portugal “considered the rights and duties of the nationals from its former overseas colonies from the time of its constitution (art. 7.4) and up to its immigration law. (...) the privileged political statute accorded to nationals of Portuguese speaking countries, on condition of reciprocity, transformed them into foreigners who were less foreign than others: it established a form of lusophone citizenship encompassing active and passive voting rights in local elections as well as in certain referendums for Brazilian and Cape-Verdian immigrants. However, the political consensus on the topic of immigration is built around the representation of an historical and linguistic community inspired by luso-tropicalism, which is currently overshadowed by the arrival of Ukrainian, Pakistani, Chinese, and Indian immigrants: the fact that the new Portuguese law, voted in 2000, implements immigrant workers quotas by country and links residency permits to a work contract already attests to a change towards a more European rather than Luso-centric treatment of the issue of immigration” (Ritaine 2003: 151-152).

1. General policies and their effects on female migrants

1.1 Policies regulating employment in sectors with high participation of migrant women

In Portugal, immigrants have essentially three ways of entering the labour market: labour immigration, mainly for PALOP and Eastern European workers, professional immigration, mainly for highly qualified workers coming from the European Union and the Americas, and entrepreneurial immigration, mainly for North-American and Asian people. The Portuguese labour market is ethnicised, even though the law does not differentiate between the various

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12 These quotas take the form of an “imperative maximum annual limit of entry authorizations for citizens of foreign nations exercising a professional occupation”, these people must be in possession of a work contract or a residency permit.
communities (Dias et al. 2004: 13). This ethnicisation is also reflected in the geographical distribution of the population. The less skilled and network-based immigration from the PALOP states is highly concentrated in urban areas (the metropolitan area of Lisbon, the peninsula of Setubal, and some specific locations in the Alentejo and Algarve regions) where job opportunities are present in less qualified jobs (construction and cleaning sector). As for the East-Europeans they are also located in the rural areas of Ribatejo and Alentejo for instance, as well as in the industrial areas of the North and part of the Centre of the country (coastal region) (Fonseca et al. 2005b). As a matter of fact, East-European migrants although filling unskilled jobs like PALOP immigrants have a greater occupational dispersion. According to the Inspectorate-General for labour (Inspecção Geral do Trabalho - IGT) (2002), Ukrainians for instance were present in construction, but also in the industry, the catering sector, in agriculture, in wholesale trading, etc. (Pereira-Ramos 2004).

Law nº99/2003 of August 27th 200313 and Law nº35/2004 of July 29th 200414 regulate employment law for nationals and for legal immigrants. The former transposes a number of European directives including that of Directive nº2002/73/CE of the European Parliament and Council of Europe of September 23rd regarding the equal treatment of men and women, that of nº2000/43/CE of the Council of Europe of June 29th applying the principle of equal treatment of people without regard to racial or ethnic origin, and that of nº2000/78/CE of the Council of Europe of November 27th that establishes a general framework for equal treatment in employment and professional activity. Item 1 of article 22 relative to the right to equal access to jobs and employment stipulates that “all people have the right to equal opportunities and treatment regarding access to employment, professional training and promotion, and to equal working conditions”. Item 2 directs that no worker may benefit from, or be victim of prejudice based on a certain criteria including gender, nationality or ethnic origin. Article 25 provides explicitly for the possibility of temporary positive action measures of legislative origin benefiting disadvantaged groups, defined by gender, national or ethnic origin, among others.15

However, it is possible to notice diverse forms of discrimination. Even when immigrants are highly skilled, they often work in unskilled jobs because foreign accreditations and training are not recognised by Portuguese professional associations and trade sectors. These situations lead to a discrepancy between education and opportunities in the labour market (particularly for Eastern Europeans, who are generally the most skilled). Another discriminatory factor is the inequality in the wages paid to immigrants and Portuguese nationals working in the same jobs in the private sector (Dias et al. 2004: 34).

In some economic sectors the recruitment of immigrant women has led to great exploitation. This can have very different forms, which vary according to their legal situation: long and unpaid working hours and physical and verbal abuse (Wall et al., 2005: 48-49). A high percentage of immigrant women work in the cleaning sector for outsourcing companies and as private domestic workers (section 1.1.1). This is mainly true of Cape-Verdian and Ukrainian women whereas Brazilian, other East-European and African women can also be found in prostitution (section 1.1.2).

1.1.1 Policies regulating domestic and care work

According to Decree-Law nº235/92 of October 24th 1992, domestic workers have to do housework, cook, wash clothes, clean and tidy the house, give assistance to children, the elderly and the sick, look after domestic animals, do the gardening and sewing or ironing. This type of employment is precarious because domestic workers have fewer social rights than other contracted workers and their wage is low (Dias et al. 2004: 11). Immigrant women, like Portuguese women, often hold two jobs concurrently (in the cleaning sector and as domestic

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employees for instance). Immigrant women who are alone in Portugal, having left their children in their country of origin, particularly need to work more in order to send money to their family and contribute towards the education of their children. Cumulating two jobs is a necessity when working in care and domestic work, they earn the minimum wage which is very low: € 385.90 per month in 2006 (or €2.23 per hour), fixed by the Decree-Law nº238/2005 of December 30th 2005. Furthermore, the employer often does not provide the papers required for their legalisation process or pays contributions (Wall et al. 2005: 13-14). As many workers do not have any contract, employers can fire them easily. These immigrant workers do not pay for social security, and therefore they cannot benefit from any type of welfare. To make this situation worse, the majority have difficulty in expressing themselves adequately in Portuguese.

Persons performing domestic and care work may be self-employed (trabalho independente), through the “green receipts” system (recibos verdes). This false autonomous employment is a disguised form of dependent work, precarious because although social security contributions are high (32 % of earnings), there are no unemployment benefits available and independent workers are entitled to fewer sickness benefits than dependent workers. They cannot claim any benefits during the first month of sick leave but have to continue paying their social security contributions during this time.16

Immigrant women speak of the problems involved in gaining legal residency in Portugal, which is not easy. Generally this depends on whether they have an employment contract (cf. 2.1) which confirms that the immigration policies are based on Portugal's economic needs (Wall et al. 2005: 35). The current immigration policies tend to perpetuate the practice of low wages and to devalue the qualifications of the workers because of their illegal status.18 The flexibility of labour is part of Portuguese policy to reduce the labour cost.

1.1.2 Policies controlling prostitution

Between 1853 and 1962, government policy regarding prostitution was regulated. There used to be brothels, but in 1962, under the Salazar’s dictatorial regime, and more particularly in the context of the UN International Convention for the suppression of trafficking in persons and the exploitation of the prostitution of others approved by General Assembly Resolution 317 (IV) of 2 December 1949 and the pressure from the church, the prohibitionist system was instituted through Decree-Law nº44.579 of September 19th 1962. This law forbade procuring and prostitution, and the brothels closed on January 1st 1963. However since January 1st 1983, prostitution has been neither punished nor regulated: there is an abolitionist system, introduced by Decree-Law nº400/82 of September 23rd 1982 which de facto amounts to toleration of prostitution.

Decree-Law nº48/91 of October 10th 1991 ratified the Convention for the Suppression of the Trafficking in Human Beings and the Exploitation of Prostitution. This stipulates that prostitution and trafficking in human beings are incompatible with human rights. Furthermore, the exploitation of prostitution is illegal under the Portuguese Criminal Code. Article nº170 of the Criminal Code rules procuring for commercial or lucrative purposes to be a crime punished by 6 months to 5 years in prison (Law nº65/98 of September 2nd 1998). This article is almost never applied because of the many well-hidden forms that prostitution assumes currently, as well as the compliance of the women themselves who do not speak out about this. This compliance can be explained on one hand by pressures, blackmail and threats by procurers, as in the case of victims of trafficking and sexual exploitation, but also by a tacit agreement between the procurer and the prostitute, based on an understanding that both parties have to earn (Oliveira 2004: 8).

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According to Law nº99/2001 of August 25th 2001\(^{19}\), the procurer is defined as the facilitator of the sexual act. The customer of the prostitute is not prosecuted although an amendment has been proposed to criminalise the customer in case of women trafficking under the influence of the adoption of the Council of Europe Convention on Action against Trafficking in Human Beings signed by Portugal in Warsaw on 16 May 2005 (but not yet ratified)\(^{20}\).

As a matter of fact, Portugal is a destination area and a country of transit for prostitution (specifically targeting Spain). The number of prostitutes in Lisbon is estimated about 6,500 persons and half of the prostitutes in the country would be foreigners (Lehti 2003). The increase of the number of Eastern women in strip clubs and in prostitution has called attention to the existence of trafficking in women (Peixoto et al. 2005: 220). While the supply of Eastern European immigrants is shrinking as a result of the reduction in work opportunities, the trafficking of women for prostitution continues to grow (Peixoto et al. 2005: 223-226) revitalizing the prostitution sector in Portugal. Brazilian women make up the largest percentage of trafficked women in the country but there are also Eastern European women (mostly from Russia, Ukraine and Moldavia) and African ones (Peixoto et al. 2005: 117). It is estimated that the Portuguese-Brazilian network has smuggled about 75,000 women into Portugal and through Portugal to Western Europe countries in a few years. “In trafficking in women from South America to Europe, Portugal is presently the first transit country, and at the same time the port of entry to the Schengen area” (Lehti 2003: 28). The trafficking of Brazilian women is predominantly organised by Portuguese/Brazilian networks while the mobility of East-European women in the North of the country is controlled by international networks, predominating the Russian Mafia (Peixoto et al. 2005).

Brazilian women are more specifically placed in “prostitution bars” (bares de alterne)\(^{21}\) or apartments. African women predominate in street prostitution because of their lower value in the prostitution market. Another characteristic of the trafficking of women is their high mobility. The women are rarely more than three months in the same “house”; they are sold and resold innumerable times between the trafficking gangs (Peixoto et al. 2005: 118-119). The majority of Eastern European women did not know that they would end up in prostitution before coming to Portugal, in contrast to the majority of the Brazilian women. However, many women end up in prostitution when they cannot find any other work (Peixoto et al. 2005: 277). Often the women are enlisted in their country as bar employees, dancers or entertainers in clubs, or come through marriage agencies, and they are not aware that they will be sold into a form of slavery. They fall into this trap as a result of their illegal status (Varandas and Saraiva 2000: 97).

Although there is much outcry and criticism in the public opinion against trafficking (Oliveira 2004), the penalties for aiding illegal immigration (smuggling) are much more frequent than penalties for trafficking in human beings. The lack of regulation in prostitution also makes immigrant women vulnerable. The training of immigration officers and other intervening agents is therefore an essential means through which to combat the trafficking of human beings. At present, the trafficking victims are classified simply as illegal immigrants and are deported, which happens to many immigrant women found in raids on prostitution bars (Peixoto et al. 2005: 299-300). According to Law nº99/2001 of August 25th 2001, the undocumented immigrant prostitutes have the right to legal immigration documents if they testify against their traffickers. They also have the right to police protection. This is congruent with the Directive 2004/81/EC of April 29th 2004. Nevertheless, they are also seen by the Foreign Nationals and Borders Service (SEF) as illegal immigrants rather than victims of trafficking (Peixoto et al. 2005: 312). After the lawsuit, they do not have this security anymore and they live with the threat that mafias could take revenge on members of their family.

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\(^{21}\) Undocumented women are enlisted in numerous prostitution bars.
1.2 Unemployment policies

Decree-Law nº119/99 of April 14th 1999 and Decree-Law nº186-B/99 of May 31st 1999\(^\text{22}\) foresee a compulsory social insurance scheme for employees with benefits related to their registered earnings. The conditions to qualify for unemployment benefit are at least 540 days of salaried work and contribution payments during the 24 months prior to unemployment. In order to qualify for unemployment assistance, employees must have received a salary for at least 180 days during the 12 months preceding unemployment. This is exactly the same for nationals and legal immigrants, both males and females. As presented by the European Employment Observatory (2004a: 11), Decree-Law 84/2003 of April 24, 2003 focuses “on the most economically fragile families and workers in those age groups that have fewer opportunities for joining the labour market. The measures implemented will make access to unemployment benefit more flexible by reducing the trial period (prazo de garantia) and providing for the payment of a provisional, short term unemployment benefit (…)”.

The Social Insertion Benefit (Rendimento Social de Inserção - RSI) has substituted the Minimum Guaranteed Income (Rendimento Mínimo Garantido - RMG), revoked by Law nº13/2003 of May 21st 2003\(^\text{23}\) “The design of each tool reflects specific and, to some extent, different objectives. For instance, the RMG sought to ensure that individuals and family units were given resources to help them meet their subsistence needs (…). The RSI seeks to provide support appropriate for the family situation of individuals and family units (…)”. The actions within the integration programme include activities such as: professional integration action (vocational training, for instance); social actions (for instance, developing activities in connection with social welfare organisations) (European Employment Observatory 2004b: 47). Any foreigner with a legal residence in Portugal can claim this benefit, under the same conditions as nationals.

Unemployment benefit and Social Insertion Income remain extremely low. It is a way to encourage the citizen to return to the labour market. The minimum wage, as already mentioned, is also low. This permits a low work cost. Several foreign companies are based in Portugal for this reason.

According to the National Statistics Institute (Instituto Nacional de Estatísticas - INE), the unemployment rate in 2003 was 6,3 % for the whole population, 6,2 % for immigrants, but for instance 15 % for Angolans and 9 % for immigrants from Cape Verde islands. European immigrants including Eastern Europeans had the lowest unemployment rate of less than 5 %: 2,7 % only for Romanians and 3,6 % for Ukrainians for instance (Fonseca et al. 2005a: 11). The Eastern Europeans are generally more skilled than African immigrants, they accept bad working conditions, and they are less subject to racism than Africans. Consequently, albeit is easier for them to find a job.

1.3 Social policies for re-entering the labour market

Decree-Law nº168/2003 of July 29th 2003\(^\text{24}\) instituted temporary measures for employment and training under the Employment and Social Protection Programme (Programa de Emprego e Protecção Social - PEPS)\(^\text{25}\); it consists of measures for training the unemployed; reducing social security contributions for part-time employees; converting short-term contracts to permanent contracts; supporting workers at risk of unemployment or those made redundant by companies undergoing reorganisation.\(^\text{26}\) These measures are introduced within the scope of


the goals defined by the revision of the European Strategy for Employment (SEE): increase the employability of individuals in order to reach full employment; improve the quality and productivity of work; reinforce social cohesion and inclusion. Legal immigrants benefit from these measures. However, a high number of male immigrants working in construction, restaurants and hotels are undocumented or are waiting for a decision about their legalisation. Therefore they cannot benefit from these social provisions (Baganha et al. 2002: 141).

The joint order n°228/2004 of 13 April 2004 provides for the establishment of a Unit for Inclusion in Active Life (Unidade de Inserção Activa – UNIVA) in two National Support Centres for Immigrants (CNAI) aiming “to provide support services for vocational guidance, the organisation of courses and vocational training programmes”. UNIVAS and the Employment and Vocational Training institute (Instituto de Emprego e Formação Social – IEF) “provide support, information and vocational/career guidance for immigrants (…) help immigrant citizens to find employment (…) collect and disseminate information on employment and vocational training opportunities (…) provide information and support with regard to the recognition of the vocational/professional qualifications of immigrants (…)” (European Employment Observatory 2005: 48).

Immigrants from PALOP and from Eastern European countries generally do not make effective use of job centres because they are not familiar with public services, and their rights and duties, and because there is a widespread feeling of insecurity among them (Baganha et al. 2002: 112). Strategies of immigrant integration lie mainly in family support. One effect of this is, as already mentioned, the concentration of immigrants in the metropolitan area of Lisbon, particularly among PALOP immigrants. A second effect is the self-exclusion caused by these urban concentrations, which mean that there is often little contact with the native population and its institutions. This again makes it more difficult for immigrants to gain information about their rights and legal status.

1.4 Policies combating illegal work

In Portugal, the informal economy represents 22.6 % of the total economy (Grassi 2005: 11). According to the European Commission on undeclared work (1998), illegal immigrants, women and unregistered workers composed the majority of the undeclared workers reservoir (cited by Miranda and Caetano 2004). In public discourse, illegal immigration and illegal work are confused, even though nationals also work in the informal sector. In Portugal hence, “the goal of fighting undeclared work is frequently associated with that of combating the informal economy, especially in relation to tax evasion, and these two issues are related to efforts to reduce and eliminate illegal migration” (Miranda and Caetano 2004: 155). The sectors most eager to make use of this undocumented workforce are the civil construction and public works industries, the agricultural industry, garment, catering and hotel businesses, and domestic work (SOS Racismo 2002: 104). The Foreign Nationals and Borders Service (Serviço de Estrangeiros e Fronteiras – SEF) combats illegal immigration and employers who exploit illegal immigrants through raids on construction sites, restaurants, shops, etc., but the number of illegal immigrants is still estimated at about 100,000 (Fonseca et al. 2005a: 12). In the same way, it does not have a firm control on immigrant entries into the country (Baganha et al. 2002: 74-75).

The Association of the Unions of Lisbon (União dos Sindicatos de Lisboa - USL) waged a campaign to pass a law to protect the rights of immigrant workers, who were increasingly being employed in industries where sub-contracting made it difficult to hold to account employers who exploited or abused them. The unions wanted to find a system in which anyone along the supply chain could be sanctioned if they did not uphold fair working conditions for workers: the “social responsibility” law which applies mostly to men’s work

27 European Social Charter (Revised), 1st application report for the revised European Charter submitted by the Portuguese government for the period of January 1st, 2003 to December 31st, 2004: articles 1,5,6,7,12,13,16,19 et 20, 293 p.
This Law n° 20/98 of May 12th 1998 instituted a special form of contract registration for the Inspectorate-General for labour (Inspecção Geral do Trabalho - IGT) for immigrants (except when their countries have a bilateral agreement with Portugal). This constituted a bureaucratic obstacle to the employment of foreigners who did not profit from the bilateral agreements and risked further illegal work situations (SOS Racismo 2002: 174). In addition, the different treatment of the various immigrant communities according to bilateral agreements sometimes led to conflicts between them. The question of “social responsibility” still exists but this law was replaced by the Law n°99/2003 of August 27th 2003 already presented above. According to Decree Law n°34/2003 of February 25th 2003, employers that hire undocumented immigrants are subject to a fine which varies according to the size of the company. The employer will also be responsible for the payment of the necessary expenses for the expulsion of the foreign citizen(s).28

In 2001, the Government established the system of quotas, based upon economic standards and the control of employers who had illegal immigrants working for them in co-operation by the Inspectorate-General for labour (Inspecção Geral do Trabalho) and the SEF. This did not reduce the illegal immigration however. There are still many clandestine immigrants, perpetuating the strategy of Portuguese employers who rely on the immigrant workforce to keep wage levels low and working conditions poor (SOS Racismo 2002: 178).

Illegal work is specially associated with men’s work as important Portuguese constructions were built with a huge number of illegal immigrants working without contract; for example, the Alqueva dam, the Universal Exposition in 1998, the Metropolitan, the Algarve expressway, the stadiums for Euro 2004 and, in the future, the TGV and the new airport in Lisbon (SOS Racismo 2002: 181).

2. Policies targeting migrants

The issue of immigration, from a legal perspective refers to three points: the integration of the European Union, that of Lusophone cultures and the 90’s new migratory flows. The first comprises: free circulation of people, free circulation of workers, residency and provision of services, and suppression of common borders linked to the Schengen area. The second involves Portugal's commitment to maintaining “privileged ties of friendship and co-operation” with Lusophone countries (art. 7.4 of the Constitution), which has resulted in preferential treatment given to nationals of these countries in several areas (Sampaio Ventura 2003). And the third one involves not only a major shifting in the country main migratory flows of origin, but also a new way through which the public opinion regards immigrants, as well as labour and cultural alterations (amongst different immigrant communities, and also between these and the Portuguese nationals).

2.1 Migration and naturalization policies, policies regulating residence and work

2.1.1 Migration laws

With time the immigration policy has become more and more complex and restrictive, and more oriented towards work-related immigration. This can be seen in the immigrants’ social representations of the Foreign Nationals and Borders Service (SEF), in the conditions prevailing during the various exceptional residency authorizations for undocumented immigrants, and in the latest enacted laws.

The Foreign Nationals and Borders Service is a criminal police structure that manages the entry, duration of stay and exit of foreigners on Portuguese territory. SEF has existed since 1976. It controls the circulation of people at the borders, the purpose and length of visits by foreigners, and it studies, co-ordinates and executes the measures relating to these activities and migratory movements. Many immigrants have described humiliating experiences with the SEF. There are endless queues, particularly during the “extraordinary regularisations”, which start to form the evening before. The immigrants are received by inspectors carrying guns and handcuffs and the list of requested documents is very long. The immigrants wait months to receive their papers, contrary to the period stated by the law. The SEF agents take their fingerprints and there is a specific register for the extra-communitarian citizens. The power of the SEF is described as discretionarial. For example, the attribution of the nationality depends on an “effective link to the Portuguese community”, criterion that can become subjective when it depends on the interpretation of the agents (SOS Racismo 2002: 195-198).

There were three extraordinary regularisations for illegal immigrants: in 1992, 1996 and 2001. The first was introduced in 1992 by Decree-Law nº 212/92 of October 12th 1992, in response to the growing migratory phenomenon in Portugal. There were 39,000 demands, of which only 16,000 received residency because of the complex bureaucratic procedure. 74.2% of the demands were from PALOP immigrants. The Ministry of the Interior estimated the number of undocumented immigrants to be around 80,000 (SOS Racismo 2002: 159-160). The second was introduced through Decree-Law nº 17/96 of May 24th 1996. Its purpose was not only to correct the errors and insufficiencies of the 1992 regularisation, but also to legalise nationals from PLOP (Portuguese-speaking countries: PALOP and Brazil) who had entered Portuguese territory before December 1995 and immigrants from other countries who had arrived before 25 March 1995. This legislation therefore introduced different treatment between Portuguese-speaking countries and all others (SOS Racismo 2002: 163). There has been an important change in the migratory flows by country: the requests of other nationalities have increased (Ferreira et al. 2004: 38), from Ukrainians in particular (Peixoto et al. 2005: 123). During the six months of this process, 35,000 residency permits have been attributed (23,400 to immigrants from PALOP and 2,300 to Brazilians).

Concerning the conditions of entrance, residency, exit and expulsion of foreigners on Portuguese territory, Decree-Law nº244/98 of August 8th 1998 amended Portuguese law, in line with Portugal’s adherence to the Schengen Convention. This Decree-Law recognised the right to family reunification (article 56) and accorded the non-EU family members of Portuguese citizens equal treatment as to EU citizens; introduced a new mechanism to support the voluntary return of foreigners to their native countries; and it also modified the penalties for aiding illegal immigration. Furthermore, this Decree-Law prevents the entry of foreigners into Portugal who cannot prove that they have the means to support themselves during their stay, or the means to return to a country where their admission is guaranteed (Article 14).

Work visas can only be granted with permission by the Institute for General Inspection of Work (article 43). This is in order to regulate the job market. The Decree-Law of 1998 also regulates the concession of temporary and permanent residency authorisation. The temporary residency authorisation is valid for a period of 2 years and is renewable for equal periods (Article 83). The permanent residency authorisation does not have a limit but must be renewed every 5 years or when an individual’s personal identification data alters (Article 84). Foreigners who can apply for permanent residency authorisation must have lived in Portugal for at least 6 or 10 years consecutively whether they respectively come from Portuguese speaking countries

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31 In particular the regularisation applications to which haven’t been given an answer and also the high number of applications denied.
or other countries and must not have criminal convictions that exceed a penalty of more than one year either separately or cumulatively (Article 85). This Decree-Law also requires notification of address for all foreigners entering Portugal (Articles 97), under the penalty of a fine (Article 149). This amounts to a large amount of bureaucracy for foreigners (SOS Racismo 2002).

In 2001, there was a third extraordinary regularisation, by Decree-Law 4/2001 of January 10th 2001. There were 170,000 legalisations: 60,888 Ukrainians, 30,902 Brazilians, 12,749 Moldavians and 10,327 Romanians (Ferreira et al. 2004: 39). This regularization in contrast to the two previous ones aimed at regularizing immigrants already working in Portugal and holding a valid work contract excluding independent workers and the non-active population. This Decree-Law approves the conditions of entrance, residency, exit and expulsion of foreigners on Portuguese territory, and created the Autorização de Permanência (AP), a new temporary residence permit. The AP is a document authorising residency in Portugal for one year on condition of having an employment contract, and it is extendable annually for up to 5 years. The creation of the AP was then aimed at the regularisation of workers and companies, particularly for immigrants who paid social security contributions (Teixeira and Albuquerque 2005: 4). 22.8 % of immigrants have an Autorização de Permanência (Fonseca et al. 2005a). This law shows clearly the aims of Portuguese immigration policies: the immigrants are desirable only if their labour is necessary. It does not permit the immigrant to settle permanently if there is no work for them. The process of the Autorização de Permanência which began on January 10th 2001 was suspended in November 31st 2001. Its revocation was not applied to those who already possessed this document and had requested an extension or to the AP requests made before the date of the revocation (SOS Racismo 2002: 188).

Despite these three extraordinary regularisations, many immigrants have continued to work in the informal sector and be exploited; many have continued in a very unstable situation because their AP is only valid for one year, the renewal of which is conditional on a continued employment (with a legal contract) and in the absence of criminal convictions. In addition, any delay in the completion of legal documents is important because some companies do not accept temporary residence documents (SOS Racismo 2002: 169-170). The Portuguese state collected about 10 million Euros, although not all the immigrants who paid the required expenses attached to the process had managed to regularise their situation in Portugal. This was criticised by several NGOs (Dias et al. 2004: 19).

Decree-Law nº4/2001 of January 10th 2001 brought in an additional punishment of expulsion for foreigners resident in Portugal who are sentenced to more than one year in prison. However, this does not apply to those born in Portugal or to people who have lived continuously in Portugal since they were less than 10 years old (Article 101). This Decree-Law also foresees sanctions for people who transport to Portugal immigrants without authorization (Article 141); the ones that employ a foreign citizen who is not authorized to exercise a professional activity (Article 144); who does not present his trip document; who has not demanded a residence document; those who do not renew their residence document; those who do not communicate their domicile; etc (Article 140 and following).

Decree-Law nº34/2003 of February 25th 2003 and respective Administrative-Decree nº6/2004 of April 26th 2004 introduced a new immigration law. As already mentioned, the process of the “Permanence Authorisation” was suspended in November 31st 2001. The sojourn conditions in Portugal only depend on the concession of visa and Residence Authorization (Autorização de Residência – AR). AR can be temporary or permanent. Temporary AR is valid

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35 Once it was, in fact, an amendment to the Decree-Law nº244/98, from the 8th August 1998.
36 In the Portuguese system, a percentage of the salary is taken by the employer because he/she has to pay social security for their workers. This system includes undocumented workers.
for 2 years and renewable for periods of 3 years under a condition of possessing ways of subsistence, conditions of lodging and fulfilling the national laws. Permanent AR can be attributed to foreigners who live in Portugal at least for 5 years for nationals of Lusophone countries (países de língua oficial portuguesa – PLOP) and at least for 8 years for nationals of other countries, if the individual does not be convicted for penalty upper one year (Article 85). Permanent AR always compels to a renewal every 5 years or when arise alterations in the elements of personal identification (Ferreira et al. 2004: 35). It is a process heavily bureaucratic.

To obtain AR, the new immigration law formalised the principle of quotas of entry of foreign workers and their distribution across sectors of activity, according to the Institute of Employment and Professional Formation (Instituto de Emprego e Formação Profissional - IEFP) notice, and its analysis of annual needs in workforce (general and for each sector). This system was hence aimed at recruiting foreign workers outside of Portugal, but in practice this quota system was not used to recruit new foreign workers but to regularise the already present immigrants. There is ineffectiveness in immigration policies and a mismatch between the real and the predicted needs of the labour market. Official argument focuses on reconciling the gap between the “real integration capacity of the country” and the number of foreigners living in Portugal (Fonseca et al. 2005a: 4). According to this new immigration law, the demands for family reunification are conditioned by the existence of real links to the receiving country, especially the evidence of permanence in legal conditions during at least one year (Article 56) (Ferreira et al. 2004: 33).

A special agreement signed between Brazil and Portugal (July 2003) allowed for the regularization of irregular Brazilian workers living in Portugal and irregular Portuguese workers living in Brazil. Moreover, Decree-Law nº6/2004 of April 26th 2004 opened the possibility of the regularisation of non-EU foreign workers who could prove they were legally employed before March 12th 2003 and were able to prove they had made social security contributions for at least 3 months before that date (Fonseca et al. 2005a: 2). This regularisation process was criticised by several NGOs for the length of time involved and for requiring immigrants who fulfilled the regularisation requirements to leave Portugal in order to obtain a work visa in a Portuguese consulate in another country. The NGOs also criticised the rejection of those who had made social security contributions after March 12th 2003 (Fonseca et al. 2005a: 4).

Despite these possibilities of regularization, the migration policy (through Decree-Law nº34/2003 of February 25th 2003) is very restrictive. The Bloco da Esquerda (Left Bloc, a far left political party) points out the fact that, beside students and those arriving within family reunification, this immigration bill requires people wanting to legally settle in Portugal to obtain a work visa linked to a promise of a work contract from an employer able to demonstrate that no Portuguese is capable of occupying the post in the quota defined for the relevant economic sector, which according to the High Commissariat for Immigration and Ethnic Minorities makes it one of the most restrictive existing systems. The law allows for the protection of nationals, European nationals and foreign nationals already settled on Portuguese territory.

2.1.2 Naturalisation policies

Decree-Law nº 308-A/75 of June 24th 1975 took away the citizenship of people born in Portuguese colonies and those who had been resident in Portugal for less than 5 years or were not resident in Portugal on the date of the Revolution (25.04.1974). This violated Article 15 of the Universal Declaration of Human Rights, and is still a problem for several individuals who lost Portuguese nationality and their respective social rights (SOS Racismo 2002: 110; Silva 2004: 103).
Through Decree-Law n°37/81 of October 3rd 1981\(^{41}\), the predominance of the *jus soli* tradition in the Portuguese nationality legislation was replaced by the principle of *jus sanguinis*. This law was the first dissuasive instrument, limiting the access to many potential candidates from the ancient African colonies (Baganha and Marques 2001: 29). The acquisition of Portuguese nationality was thus rendered more restricted. “Because of this the children of foreign parents born in Portugal have faced a number of challenges in obtaining Portuguese nationality” (Fonseca 2005a: 17).

The new organic Law n°2/2006 of April 17th however slightly reinforces the *Jus soli* principle although it remains an “in between model”.\(^{42}\) Children can be naturalised at the age of 18 on condition that they can prove 10 years of continuous residence in Portugal or if one of the two parents have resided in Portugal for at least 5 years (this length was of 6 years for foreigners coming from Portuguese-speaking countries and 10 years for all others) (Fonseca 2005a: 17). The access to Portuguese nationality relied on the condition on continuous legal residence in Portugal for at least 6 years for immigrants coming from Portuguese-speaking countries and 10 years for all others (Decree-Law n°37/81 of October 3rd). The period of 6 years has been standard for all foreigners.\(^{43}\)

#### 2.1.3 Refugee and Asylum Law

In the context of the European Union, Portugal is the country with the lowest number of asylum applications in the last couple of years (86 in 2003, 84 in 2004 and 102 in 2005).\(^{44}\) This is due not only to the geographical position of the country (very far away from the areas of Asia and Oriental Africa and with few direct air connections to these places), but also to the image of a less developed country to which is associated the idea of a asylum seekers receptions system that offers inferior conditions (in comparison to those applied in other European countries like The Netherlands, Sweden or United Kingdom). Additionally, as Portugal is seen as a relatively tolerant country regarding irregular migration, many individuals decide not to present their asylum applications, in contrast to what happens in countries with an image of major control of the foreign flows (Malheiros and André 2002: 5). Finally, the legalisation possibilities offered by the Portuguese state in the last decade (1992/93, 1996 and, indirectly, the process of 2001 with the *Autorizações de permanência*, granted to the foreign workers that had a valid work contract, associated to a legislation that offers some alternatives to the entrance in the national territory)\(^{45}\), seem to contribute to a reduction in the number of individuals that use the asylum application as a way to enter in the country.

In Portugal, the number of asylum applicants that obtain the refugee status is low. In proportion, the percentage of those that obtain a residence permit for humanitarian reasons (article 8º from the Law of Asylum n°15/98, from the 26th March) is higher. The asylum seekers in Portugal constitute a population mainly composed by men (86,6%) and young persons (72,5% have less than 35 years old).\(^{46}\) In the last couple of years, the age profile of the asylum seekers is being even younger. The geographical origin of these persons is varied but those from Africa predominate. The high diversification of asylum seekers was in particular registered in the period from 1998 to 2001: the predominance of those coming from Western Africa has been significantly reduced, in comparison to the arrival of groups from South-Western Africa, Latin America, Indian subcontinent and Central Asia. In the same time the number of applicants from Eastern Europe also increased (Malheiros and André 2002: 14).

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\(^{44}\) Statistical data from the Portuguese Refugee Council, in: http://www.cpr.pt

\(^{45}\) For instance, article 55 of the Law n°4/2001, from the 10th January, exempts from visa several special situations.

\(^{46}\) Data from 2001 in Malheiros and André (2002).
These rapid changes in the scope of the forced migrations have justified two alterations in the legislation in the space of only five years. In 1993, when a flow of asylum applicants associated to the political transition in the East Europe has generated a high pressure under the national reception system.\footnote{There were 61 applicants in 1990, 234 in the following year, 535 in 1992 and 1659 in 1993 (the highest rate registered in the 90’s).} The law in force was connected to the principles of the “fortress Europe” and had a logic of control and restriction. In 1998 a new legislation (\textit{Law nº15/98, from the 26th March}) revoked the previous law from 1993 and incorporated some new advances concerning the procedure flexibility, a major cover in the protection situations (as in the case of the Temporary Protection) and access to paid work for asylum seekers with temporary residence permit (CPR 1998). In addition, this new law has recognised the role of the Portuguese Refugee Council as an essential partner in the asylum procedure, as well as in the areas of juridical and social support to asylum applicants and refugees.

Nevertheless, until now, the articles 54º and 55º from the Law of Asylum nº15/98, from the 26th March – respectively related to the medical assistance and the minimum guaranteed incomes – have not yet been regulated. From this omission results the fact that the previous rules are still in force, which are not adequate to the present situation. Furthermore, the reduced number of asylum seekers, as well as the diversity of their origins, are underlying factors of their double vulnerability: the absence of countrymen that can function as an informal support network in the host society and the contingent non familiarity with the host society and its traditions, distinct social practices, linguistic barriers, etc.

\subsection*{2.2 Integration policies addressing migrants}

The Co-ordinating Secretariat for Programmes of Multicultural Education (Secretariado Coordenador dos Programas de Educação Multicultural) was created in 1991 within the Ministry of Education. Its mission was to ensure equal opportunities in education for students from different ethnic backgrounds and the development of an intercultural curriculum. In 2001, this organisation was replaced by the Intercultural Secretariat (Secretariado “Entreculturas”). It operates under the authority of both the Ministry of Education and the government department concerned with equal opportunities. The Secretariat is responsible for developing, launching and co-ordinating inter-ministerial projects and programmes within the education system, with the purpose of fostering social cohesion, tolerance, dialogue and solidarity (Catarino and Freitas 2004: 38). One of its activities is the development of research and social intervention in schools to support the integration of immigrants’ children, offering long-term training in intercultural education. However, the project involves only 52 schools and 200 teachers (Albuquerque and Teixeira 2005: 14-15).

“Portugal Acolhe” (Portugal hosts) is an initiative by IEFP for immigrant integration. It promotes a welcome guide and a training module of citizenship practices and language classes. This is used mainly by Eastern Europeans supposedly because people from PALOP already have at least some knowledge of Portuguese language (Fonseca \textit{et al.} 2005a: 18). The question of the unilateral and integrationist perspective of this program which does not sufficiently take into account immigrants’ different characteristics to adapt to them and to valorise them has been raised by Malheiros (2006). According to the author this is in line with the conception of integration within the Portuguese assimilationist policy (Decree-Law nº251/2002): as the knowledge of Portuguese language, of laws, as well as moral and cultural values.

\textit{Law nº105/2001 of August 31st 2001}\footnote{Lei nº 105/2001 de 31 de Agosto, in: \url{http://www.acime.gov.pt/docs/Legislação/LPortuguesa/Minorias/L105_2001.pdf} (13.04.2006).} established the legal status of the socio-cultural mediator. His/her role is to assist immigrants and ethnic minorities in their integration with the aim of reinforcing intercultural dialogue and social cohesion and fostering respect and awareness of cultural diversity and social inclusion. It is also to help in the prevention and resolution of social and cultural conflicts and to define strategies of social intervention; to work...
actively with all parties involved in the processes of social and educational intervention; to facilitate communication between professionals and service users from different cultural backgrounds; to assist service users in their dealings with professionals and both public and private services; to promote equal opportunities for citizens from different social and cultural backgrounds; and to respect the confidentiality of all information concerning the families and communities affected by these activities (Catarino and Freitas 2004: 38-39).

The High Commission for Immigration and Ethnic Minorities (ACIME) also provides a telephone line, “SOS Immigrant”, which is open six days a week, from 8 am to 8 pm, in three different languages (Portuguese, Russian and English). This telephone line is designed to help immigrants by providing useful information and referring them to other institutions or associations. More recently, ACIME and the Portuguese Refugee Council have created two specific databases, targeting specifically the information to be provided to immigrants and asylum seekers.

At the cultural level, along with the informal parties organised by immigrants’ associations (like Solidariedade Imigrante, for instance), some NGO’s organise multicultural gastronomic festivals and ACIME has been producing a TV programme where immigrants can talk about their culture and way of living. As a result of the new migratory flows from the 90’s, in the last years, there has also been an increase in the number of radios and journals from Eastern European communities, as well as specialised food shops from Asia, India and Eastern Europe.

2.3 Implementation in the national context of EU programs

Since 1992, towns with large immigrant communities have created special offices for immigration (Baganha et al. 2002: 77). However, most of the municipalities have limited their intervention to providing Portuguese language courses for foreigners. The most important integration projects are: the local projects financed through the Community Initiative EQUAL; GARSE (Office of Religious and Social Affairs, a cabinet created within the City Council of Loures – one of the cities in Portugal with the highest rates of immigrant’s communities); and education projects such as APELARTE (also in the city council of Loures) and Escola Inclusiva. All these projects are very recent and only cover areas where there are significant concentrations of immigrants (SOS Racismo 2002: 304-309).

The Community Initiative EQUAL (Program QCA III) sets some objectives based on the following diagnosis: there is a need, among other things, to take into account the needs and specific interests of the most vulnerable population groups in terms of training and access to work; to combat their negative image; to reduce territorial development inequalities; to develop the entrepreneurial initiatives. Five priorities were defined: employability; entrepreneurial spirit; adaptability; men and women equal opportunities; asylum seekers. Ethnic minorities such as those coming from the PALOP, victims of racism and new migrants coming from East-European countries whose qualifications are not sufficiently recognised, asylum seekers and women were among the target groups defined under the frame of this program.50

The project Sunrise initiated in 2002 in the frame of the program EQUAL was aimed at developing East-European immigrants’ professional and social integration into the footwear sector in order to increase employability and combat racism. As indicated by the Equal database, the beneficiaries of this project were mainly male (65%)51, this project efficiently

contributed to fill a gap in this activity in the North of the country. The project Igualdade Cidadania (Equality Citizenship) managed by the International Organisation for Migration (IOM) and developed in the municipality of Vila Franca de Xira (Lisbon district) is mainly aimed at reducing gender gaps in employment by promoting “policies for recruitment, selection, payment, access to training, career progression”, “culture of non-discrimination in the workplace”, etc. About 94% of the beneficiaries were migrant women and women from ethnic minorities. These two projects (Sunrise and Igualdade Cidadania) and others in Greece and Italy “have formed a transnational co-operation in order to combat racism and xenophobia.”

The Portuguese Refugee Council (Conselho Português para os Refugiados - CPR) has made protocols and agreements with the Portuguese government to provide shelter (through the financing of the European Refugee Fund), as well as juridical and social aid to asylum seekers. In the scope of the Community Initiative EQUAL, CPR is building a social equipment comprising a new reception centre for asylum seekers, a day nursery, a sport complex and a public garden in Loures. This project is meant for asylum seekers, refugees and the host society together, in order to promote the integration of refugees in Portugal and multiculturalism in the Portuguese society.

One of the international organisations that work in collaboration with ACIME is the Portuguese Mission of the International Organisation for Migration (IOM). This Mission is developing a series of workshops and conferences on immigration. At the same time, it was a partner in carrying out a project entitled Equality in Each Face, financed by the European Fund for Regional Development (FEDER). Equality in Each Face seeks to promote tolerance, interaction, co-existence, multicultural diversity and the integration of immigrants. An atypical Information Centre was set up in 2001 within the scope of this project. In this Centre, IOM and SEF worked together, giving information and providing the regularisation through the Residency Permit, under the scope of the Decree-Law nº4/2001, from the 10th January 2001. ACIME also participated in the execution of this project.

2.4 Policies giving access to political rights and participation and enabling migrants to establish associations

In Portugal, mainly since 2002, a number of institutions have been created to increase immigrants’ civic participation. At the state level, the most important organisation is the High Commissariat for Immigration and Ethnic Minorities (Alto Comissariado para a Imigração e Minorias Etnicas) founded by the Decree-Law nº251/2002 of November 22nd 2002. At the local level there are two types of initiatives: advisory councils and municipal departments specialized in immigration matters.

The Portuguese Constitution sets up the principle of equality and non-discrimination among citizens, and the principle of equal rights between nationals and foreigners, with some exceptions written into the law. According to Article 15 (clause 1): “Aliens and stateless

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54 Integration of the migrants into the labour market and civil society in Europe, in: https://equal.cec.eu.int/equal/jsp/tcaView.jsp?id=1428&fFTCAMajorVersion=3&fFTCAMinorVersion=0 (20.12.06).
persons staying or residing in Portugal enjoy the same rights and are subject to the same duties as Portuguese citizens”. However, there are some exceptions to this principle of equality: a) political rights; b) performance of public duties that are not predominantly technical; and c) rights and duties restricted to Portuguese citizens under the Constitution and by law (clause 2). No foreign nationals are allowed to perform certain public functions (b) such as president of the Republic, serve in the armed forces and work in the diplomatic service. However, according to clause 3, citizens of Portuguese-speaking countries may, by international convention and subject to reciprocity, be granted rights not otherwise conferred on other foreign nationals (political rights and access to certain public offices that are not restricted to Portuguese citizens under clause 2). Moreover, according to clause 4 and subject to reciprocity, the law may confer upon foreigners residing on Portuguese territory the right to vote and to stand for local election. Portuguese law therefore separates citizenship rights from nationality under certain conditions.

Citizenship is partly linked to residence and subject to reciprocity.

Law nº50/96 of September 4th 1996 precisely alters the electoral law in order to allow resident foreigners and EU citizens the right to vote and to stand for local election, on conditions of reciprocity (according to Directive 94/80/EC of December 19). Law nº1/2001 of August 14th 2001 regulates the election of public office holders in local government. According to the principle of reciprocity, nationals from EU member states and nationals from Portuguese-speaking countries who have been residing legally in Portugal for at least two years, and all other nationals who have been legally residing in Portugal for more than three years, have the right to vote, providing they originally come from countries in which the right to vote is granted reciprocally to Portuguese expatriates. This principle discriminates between immigrants from Portuguese-speaking countries and EU citizens, and all others (Catarino and Freitas 2004: 37). Reciprocity is often criticised since it is not a universal and objective regulation applying to all regardless of nationality. This is a contractual regulation involving states through bilateral or multilateral agreements. Individuals cannot influence their access to rights, as this access depends on state agreements (Costa 2006a). As put in evidence in the table below, some immigrants coming from Portuguese-speaking Countries were granted the right to vote (Cape Verdeans, Brazilians) while others not (Angolans, migrants from Guinea Bissau and Sao Tomé e Príncipe).

Table 1: The right to vote in local elections by nationality

<table>
<thead>
<tr>
<th>Granted the right to vote</th>
<th>Not granted the right to vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country</td>
<td>nº of residents</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>55.329</td>
</tr>
<tr>
<td>Brazil</td>
<td>28.387</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>17.937</td>
</tr>
<tr>
<td>Spain</td>
<td>15.717</td>
</tr>
<tr>
<td>Germany</td>
<td>13.039</td>
</tr>
<tr>
<td>France</td>
<td>9.177</td>
</tr>
<tr>
<td>Netherlands</td>
<td>5.335</td>
</tr>
</tbody>
</table>

Source: Serviço de Estrangeiros e Fronteiras, 2005 in Costa (2006a)

Decree-Law nº75/2000 of May 9th 2000 which regulates Law nº115/99 of August 3rd 1999 established the legal framework of the constitution and the rights and duties of
immigrants and their descendants’ associations. They also give official recognition of their right to benefit from state technical and financial support for their activities (Catarino and Freitas 2004: 36). As a matter of fact, “until then, immigrant associations were not regulated by a special status, and were formed as non-profit cultural associations or private associations of social solidarity. The approval of the legal regime of immigrant associations (…) paved the way for a higher visibility of these associations as political partners and legitimate representatives of the interests of immigrant groups in the public arena” (Teixeira and Albuquerque 2005: 17).

The Consultative Council for Immigration Issues (Conselho Consultivo para os Assuntos da Imigração – COCAI) has a role in the formal creation of immigrants’ associations and in managing their financial support. The COCAI is integrated into the ACIME since 2002 (Decree-Law n°251/2002 of November 22nd 2002). The increase and diversification of immigration flows in the last five years have been reflected in the strengthening of the various associative movements of immigrants (Fonseca et al. 2005a: 29).

2.5 Anti-racism, anti-discrimination, equal opportunity and affirmative action policies

Portugal has ratified the European Convention of Human Rights (ECHR). Law nº134/99 of August 28th 199961 forbids discrimination based on race, nationality or ethnic origin and establishes the principle of equality.62 Decree-Law n°111/2000 of July 4th 200063 that regulates Law nº134/99 of August 28th 1999 stipulates that all citizens have the same social dignity and are equal in the eyes of the law. Nobody can benefit or be disadvantaged as a result of their ancestry, sex, race, language, country of origin, religion, ideological or politics convictions, education, economic situation or social condition.

Law nº99/2003 of August 27th 200364 of the Labour Code has enhanced protection against discrimination by implementing, as already mentioned, directive EC2000/78 within the Portuguese legal system. Law nº35/2004 of July 29th 200465 regulates this former law which enacted the Labour Code, prohibits discrimination on the grounds of ancestry, disability, chronic diseases, age, sex, ethnic origin, sexual orientation, religion, civil status, political or ideological convictions, family situation, trade union affiliation, genetic patrimony, reduced capacity for work and nationality. The victim must be able to substantiate their complaints and the accused has to prove the absence of discrimination.

The state body responsible for receiving and dealing with issues of racial discrimination is the Commission for Equality and against Racial Discrimination (Comissão para a Igualdade e Contra a Discriminação Racial – CICDR). However it is difficult to prove conclusively the occurrence of racial discrimination. Although many cases of discrimination do not arrive to Portuguese courts, in recent years, this Commission has been expressing publicly its disagreement against certain forms of treatment of immigrants’ communities in the mass medias.

In spite of this legislation, inequalities between different groups remain. For example, the special agreement signed between Brazil and Portugal in July 2003 allowed the regularisation of

illegal Brazilian workers living in Portugal and illegal Portuguese workers living in Brazil. Furthermore, statistics show us that workers with different national origins are concentrated in certain segments of the labour market (Dias et al. 2004: 2). Roma and immigrants from PALOP are most affected by discrimination. Cases of negative reactions to the admission of Roma students to schools have led to the intervention of the High Commissariat for Immigration and Ethnic Minorities and of the Ministry of Education. There is discrimination concerning access to housing and NGOs have also accused police authorities of violence against Roma and Africans (Dias et al. 2004: 3-4).

In 2003, Amnesty International presented its annual report covering January to December 2002. In the section covering Portugal, Amnesty International documents cases of abuse by the police at the time of arrest and inside police stations. Alleged victims have included children, women and members of ethnic minorities. In some cases, difficulties were raised for victims attempting to file charges against the police (Catarino and Freitas 2004: 5). Several organisations, such as Solidariedade Imigrante, SOS Racismo and Olho Vivo, are frequently contacted by people looking for advice and support after they have been denied the right to buy or rent a house for no other reason than the colour of their skin, their accent or nationality (Dias et al. 2004: 35-36). In certain national news websites, readers are allowed to publish comments about the news. It is common to find, annexed to news items related to immigrants, violent and discriminatory comments that advocate racial violence (Dias et al. 2004: 45).

There are not enough effective policies to combat discrimination even though Portuguese legislation includes a vast number of laws aimed at preventing and punishing discriminatory acts of all kinds (Catarino and Freitas 2004: 3). In addition, the Portuguese justice system is chronically slow and as mentioned only a small percentage of discriminatory acts are formally reported.

In November 2002, the European Commission against Racism and Intolerance (ECRI) published a second report on Portugal which recognised a series of positive measures taken by the authorities to combat racism. However, it also pointed out the persistence of the problem: in particular the lack of effective processes that punish activities which incite or encourage racial violence, hatred or discrimination; the fact that racism is not considered an aggravating circumstance for any crime; the economic and social situation of asylum-seekers waiting for the outcome of their applications; and the lack of reliable information on the situation of the various minority groups living in the country. The Commission was particularly concerned about the alleged immunity of police officers responsible for acts of racial violence (Catarino and Freitas 2004: 59-60).

### 2.6 Policies combating illegal immigration

The term “illegal immigrant” as defined by Portuguese law includes people who enter national territory without legal documents or with false papers and people with legal documents who remain in the country after these papers have expired. An important contributing factor to the existence of undocumented immigrants is the strict requirements that immigrants have to comply with in order to obtain a residency authorisation or extend their visa. This is evident from the number of applications for residency that are rejected. As already mentioned, the Portuguese state organized special periods of regularization for undocumented immigrants.

During Portugal’s first period of regularisation between October 1992 and March 1993, only 16,000 immigrants were granted residency authorisations from the 39,166 who applied. This discrepancy was mainly because of the lack of information made available to immigrants about the regularisation process and the difficulties involved in complying with the legal requirements. The second special regularization process took place during 1996 and the third was in 2001. The creation of the Autorização de Permanência status in 2001 absorbed many individuals (mostly Eastern European) that were living in the country illegally but had a work contract and paid social security contributions. In 2004, there were two other special regularisation processes, one aimed at the general immigrant population and the other specifically targeting nationals from Brazil (Albuquerque and Teixeira 2005: 12).
The measures put in place in recent years to fight illegal immigration include the establishment of quotas (2003), new identity cards that are more difficult to falsify; the fight against “marriages of convenience” that according to the European Commission “DG Justice and Home Affairs” are defined as “marriages between a European national and a national of an outside country with the sole intention of obviating the entry and residency regulations for nationals of outside countries”. Some women are paid for these “marriages of convenience”. Eastern European, Brazilian and PALOP women are in demand by Portuguese men. Sometimes these women are prostituted against their will. Similarly, Portuguese women in a precarious situation sometimes marry foreign men (African, Pakistani, Indian, etc.) as a way to gain financial security. This is viewed as a criminal act of aiding illegal immigration (Grassi 2005). The SEF draws on a number of criteria to detect these unions of convenience: large age differences between spouses; suspicions raised by the foreign spouse's nationality (marriages between Brazilian women and Portuguese men or Portuguese women with Pakistani men...); absence of cohabitation; raised toilet seats (Grassi 2005: 3 and 13).

2.7 Policies combating trafficking in human beings

Trafficking in human beings is mainly differentiated from activities intended to facilitate the entry, residence or work of illegal migrants into Portugal by the fact that in the former case the person victim of trafficking was not willing and his/her exploitation is mainly realised during his/her permanence in the country (in the latter case it is limited to the transport of the illegal migrant and help to enter the labour market). The issue of trafficking in human beings came to the front with the affluence of illegal migrants coming from East-European countries. It is currently one priority of the Portuguese political agenda although its definition is rather restrictive. It is actually limited to prostitution and sexual relationships excluding forced labour, slavery or servitude which differs for instance from the broader conception of trafficking as defined in the additional protocol to the United Nations Convention against organised transnational organised crime (Costa 2006b). Indeed article 169 of the Penal Code modified by Law nº99/2001 of August 25th 2001 establishes in substance that whoever uses violence, threats, and fraudulent means, misuses their authority or takes advantage of any situation of particular vulnerability to transport and smuggle human beings or by any other means to facilitate prostitution or defined sexual relationships (“actos sexuais de relevo”) in a foreign country, will received a prison sentence of between 2 and 8 years (Peixoto et al. 2005: 73-75). The next point worth noting is that many contractors and entrepreneurs collaborate with the Mafia networks by paying the wages of immigrant workers directly to them (Peixoto et al. 2005: 114).

One of the biggest gaps in the legal system concerns the protection of witnesses/victims of trafficking. Decree-Law nº190/2003 of August 22nd 2003 which regulates Law nº93/99 of July 14th 1999 enacts measures for the protection of witnesses in criminal proceedings. Through this law, the Republic Assembly details the witness protection programme in criminal cases and stipulates how protection mechanisms will be developed. Thus the law regarding witness protection has existed since 1999 but it was only regulated in 2003. This situation raised some problems on contribution of the victims in the judgments. The protection of the respective families in the native countries is also non-existent (Peixoto et al. 2005: 284).

There is a lack of complaint mechanisms through which to report extortion and exploitation of immigrants in the work place and a lack of official procedures to detect trafficking. There are few shelters for victims that offer psychological and physical support. Often SEF, because of the lack of resources, uses prisons to house illegal immigrants during the process of deportation. There is also a lack of support in the social reintegration of trafficked women, who often return to prostitution. Finally, inquiries into legal businesses that provide a

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front for the activities of pimps and the exploitation of immigrants is far from adequate (Peixoto et al. 2005: 286-290).

3. Specific institutions designing migration and migrants’ integration policies

ACIME is an interdepartmental structure which offers consultation on immigration and ethnic minorities’ affairs on behalf of the Portuguese government. ACIME promotes the integration of immigrants and ethnic minorities and is able to penalise any violations of the law that prohibits discrimination based on race, ethnicity or nationality. It reports on the immigration situation in Portugal and has become the political mediator between the government and immigrants’ associations. Two semi-autonomous structures were created within ACIME: the Consultative Council for Immigration Affairs (Conselho Consultivo para os Assuntos da Migração – COCAI67) which facilitates the joint participation of associations and social partners in the creation of policies promoting immigrants’ rights, and the Commission for Equality and against Racial Discrimination (Comissão para a Igualdade e contra a Discriminação Racial – CCIDR) which was created to oversee the implementation of Law nº37/99 of May 26th 1999 which bans discrimination based on race, ethnicity or nationality (Albuquerque and Teixeira 2005: 15-16).

CPR68 is an NGO created in 1991, born through the enactment of the Law of Asylum nº15/98 of March 26th 199869, as the organisation that provides independent legal advice to asylum seekers in all the stages of the procedure (article 52 – 2º). It develops projects to assist asylum-seekers and promote the integration of refugees. As mentioned, its current projects are financed by the European Refugee Fund and by the Community Initiative EQUAL.70 CPR is an operational partner of UNHCR since 1993. Since 1998, after the closing of the UNHCR’s office in Portugal, CPR represents this agency in the country. Its main activities include: a reception centre in Bobadela (Loures), legal advice, social support and counselling, employment and vocational training guidance, Portuguese and computer training courses, training courses, seminars and meetings on refugees’ issues and asylum law.

4. Bottom up activities

In addition to governmental institutions, other actors have a role in the decision-making process concerning immigration; political parties, trade unions, immigrants’ associations (e.g. Casa de Angola, Casa do Brasil, Casa de Moçambique, Soyz, etc.), diverse NGOs, churches and associations of religious character, and university institutions which conduct research in this area (Fonseca et al. 2005a: 29). Anti-racist associations, the Red Cross, the Jesuit Refugee Service and Santa Casa da Misericórdia have thus a role in aiding immigrants, along with local and national structures concerning immigrant communities such as the Municipal Council of Immigrant Communities and Ethnic Minorities (Conselho Municipal das Comunidades Imigrantes e Minorias Étnicas), the Consultative Council for Immigration Affairs (Conselho Consultivo para os Assuntos da Imigração) and the Commission for Equality and against Racial Discrimination (SOS Racismo 2002: 376-381). A number of associations work in co-operation with public institutions as for example, ACIME, SCM, IEFP, unions and political parties. Some of these even help illegal immigrants (Albuquerque et al. 2000: 30), depending on the individual good will of the service provider.

Meanwhile, according to Fernando Luis Machado (2005), the institutional and political regulation of migration in Portugal which really started to take place from 1995 to 2001 (through the creation of specific institutions designing migration and migrants’ integration

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policies; the enactment of integration laws; the extension of social policies so as to include immigrants) rather resorts to a political consensus and a top down process than to bottom up activities. As a matter of fact, it seems that although these organisations were active and contributed to this institutional and political regulation, some dissension exists for instance between migrants’ organisations on the one hand and NGOs advocating for migrants’ rights on the other. The latter accuse the former of benefiting from public financial support for their activities and of lacking independence.

Legal immigrants benefit from their inclusion in the social security system, public healthcare and the full enjoyment of labour rights. However they sometimes lack knowledge about their rights, and at other times the official structures refuse to allow them their rights and/or inefficient and inadequately trained public workers do not know about immigrants’ rights. Several NGOs, religious organisations and civil society movements carry out activities such as Portuguese language courses for immigrants. Despite this, there is still a crucial delay in implementing immigration policies that effect the full integration of foreign citizens and their descendants. This situation, which particularly affects the second generation from PALOP, produces problems in school and often leads for example to a high drop-out rate. This tends to harm the prospects of these groups.

The issue of immigration is not a constant topic of debate among the political forces in Portugal. Its discussion in the political and public arena is intermittent and dependent on specific incidents such as crimes or accidents that attract a lot of media coverage and in which immigrants play a central role (Teixeira and Albuquerque 2005: 13). Media coverage, particularly television, is often negative and it has influenced the way in which Portuguese people see immigrants and ethnic minorities, even if there is not significant extreme right-wing support. Journalists often present stories from a particular angle, following the basic hero/villain formula, to make entertaining and shocking news. The Portuguese media usually represents immigrants and ethnic minorities as ‘others’ and often stereotypes them as criminals, delinquents and undesirables (Fonseca et al. 2005a: 21).

A report of the European Observatory of Racism and Xenophobia that was published in March 2005 stated that most Portuguese (62.5 %) feel that there is an excessive number of foreigners in the country (Fonseca et al. 2005a: 5). However, around 7 out of 10 people agree that immigrants contribute a lot to their country (66%). This places Portugal at the second position of positive views about immigrants’ rights. Several NGOs, religious organisations and civil society movements carry out activities such as Portuguese language courses for immigrants. Despite this, there is still a crucial delay in implementing immigration policies that effect the full integration of foreign citizens and their descendants. This situation, which particularly affects the second generation from PALOP, produces problems in school and often leads for example to a high drop-out rate. This tends to harm the prospects of these groups.

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5. Conclusion

The 1990s was a decade marked by economic liberalisation and increased flexibility in the Portuguese labour market. This increased the need for a cheap labour force. As result, many workers were given temporary contracts. The legalisation of immigrants as the result of a demand for foreign workers in specific sectors of the economy has accompanied this transformation. The goal of migratory flow regulation is to service the needs of the labour market. The recent immigration from Eastern Europe amplified the foreign presence in

unskilled jobs (construction, industry and domestic services) although some immigrants have high qualifications (Dias et al. 2004: 11-12).

In Portugal, three immigrant groups can be clearly discerned showing an ethnicised division of labour: 1) Asians, who generally work in the commercial and service sectors and are, on the whole, self-employed (depending extremely on their own families – a family is also the employer); 2) Africans, Brazilians and Eastern Europeans, most of whom are workers, who hold unskilled jobs that include domestic work for women and construction work for men; and 3) EU and American citizens who have qualified jobs or engage in entrepreneurial activities. This group also includes agricultural workers, which reflects the number of European citizens (e.g. Dutch) who come to Portugal to enjoy their retirement and invest in large agricultural properties (Dias et al. 2002: 26).

Portugal also presents a rather rigid case of gender division in the area of unskilled employment with immigrant men mostly working in the building and public works sectors, and to a lesser extent in commercial employment, while women work in domestic service and care, as well as commercial jobs. It appears furthermore that the regulations applying to economic activity and first and foremost immigrants, namely the law n°20/98 of May 12th 1998 (the “social responsibility” law) specifically regarding the protection of workers in the context of sub-contracting employment, has a particular impact on men in the building and public works sectors.

Immigration policies in Portugal were almost non-existent until 1992, when Portugal’s commitment to the Schengen Agreements in 1991 forced the Portuguese government to restructure its immigration policy.72 The critique of the new immigration law (Decree-Law n°34/2003 of February 25th 2003), stressed the excessive focus on security and labour; the formalisation of inequalities among different categories of non-EU residents; and the relatively restrictive concept of family applied in the process of family reunification (Fonseca et al. 2005a: 24). Children over 18 years old are not eligible to join their parents and family members coming to Portugal have restricted access to the labour market (Fonseca et al. 2005a: 19). Moreover, the Portuguese law is presented as very complicated, as it currently distinguishes between several valid immigrant statuses, through residency authorisation, permanence authorisation, several categories of visas.

The Portuguese Constitution sets up the principle of equality and non-discrimination among citizens, and the principle of equal rights between nationals and foreigners, with some exceptions written into the law. However Portugal has been trying to preserve special bonds with Portuguese-speaking countries, so the government has preferential treatment to nationals from these countries, as well as to people from EU member states, over nationals from other countries. The special treatment of nationals from Lusophone countries for instance is evident in the different periods of time required by law to acquire permanent residency and in the signature of special bilateral agreements with these countries about visa, entry and permanence in Portugal. There are then two specificities in Portuguese law. Firstly, the principle of reciprocity: immigrants receive the same treatment that Portuguese expatriates are granted in the immigrants’ countries of origin (Baganha et al. 2002: 380-381). The second principle is the differentiation between nationals from Portuguese-speaking countries and EU member states, and nationals from all other countries. They are unequal in the eyes of the law.

Nevertheless, this preferential treatment of nationals from Lusophone countries could be diminishing. The bilateral agreements passed between Portugal and Brazil (July 2003) permit the reciprocal recruitment of workers, and having introduced a legal mechanism for Brazilian immigrants to acquire residency permits, were criticized by left-wing parties as the “bloco da Esquerda”, just like the formalization of the inequalities between different categories of non-EU residents relating to length of stay to get the permanent Residence Authorization (AR) (Decree-Law n°34/2003 of February 25th 2003). With the official aim of reducing illegal immigration, there is also the Decree n°3/2005 which constitutes an accord between the Portuguese Republic and the Ukraine permitting temporary migration of Ukrainian citizens for the purpose of work

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72 Since 1992, the number of immigrants has grown gradually.
in the Portuguese territory. The last few years have seen the establishment of equal rights for non-European Union nationals and those coming from Lusophone countries attempting to acquire the Portuguese nationality (they currently need 6 years of residency before making the request for the Portuguese nationality instead of 10 and 6 respectively) (organic law no.2/2006 of April 17th). Furthermore, family benefits will only be granted to foreign nationals from countries that have passed a bilateral agreement with Portugal, thus excluding Cape-Verdian and Angolan immigrants with residency permit in Portuguese territory, despite their having come from Lusophone countries.

One of the most expressive facts of the re-establishment of a labour migration not in accordance with the rights reciprocity formerly accorded to immigrants originated from Lusophone countries, is the new legislation studied by the Portuguese government. On the 10th August 2006, the Council of Ministers has approved a new immigration law (that will enter into force after being presented and approved in the Republic Assembly). The draft-project of this new immigration law has been put to public discussion by the Internal Administration Ministry, during the last month of July. The need for this new law, explained in the draft-project, refers to lack of systematisation of the previous legislation and its inadequacy to the social reality. On the other hand, according to the objectives of the Government’s programme, the State must have a more pro-active approach in which refers to immigration, not only considering the admission and expulsion, but also in an equality imperative. Through this new law the Portuguese government pretends to transpose the European Community Directives regarding these issues, establishing a juridical framework more coherent and responsible than the previous one – recognising like this the failure of the quota system.

Like in the previous legislation, this draft-project for the new immigration law stipulates that the immigrants’ entry should be determined by the Portuguese labour market needs (and not by the cooperation relations established with the former African colonies). Nevertheless, the new procedures seem much more simplified and adapted to the social and economical needs whether of the immigrant or of Portugal as reception country. In this sense, the proposal presents a vision of the immigration as an opportunity, and not of a threat.

This draft-project foresees that a temporary visa (of six months) can be granted to those immigrants that pretend to find a job in Portugal. An Employment database describing the available job opportunities will be created annually by the government, in accordance with the opinion of the Permanent Commission for the Social Cohesion. Knowing that, in the last couple of years, Portugal has seen an increase of the immigration flows coming from Eastern European countries, we can hypothesise that this new law will benefit these immigrants (long considered as a much more valued manpower in the Portuguese labour market). The Employment and Professional Training Institute will also have available online an employment database, to divulge the job offers (through this website it will also be possible to apply for the temporary visa, with the manifestation of interest of an employer).

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73 Acordo entre a República portuguesa e a Ucrânia sobre migração temporária de cidadãos Ucranianos para a prestação de trabalho na República portuguesa, in: http://www.gddc.pt/siii/docs/dec3-2005.pdf (18.05.06). Bilateral agreements between Portugal and Romania and Russian Republic on temporary labour were also previously signed in 2001.
74 Ricardo Dias Felner, „Angolanos e Caboverdianos de fora. Governo discrimina imigrantes na concessão de abono de família”, Púlico, 10.05.06, in: http://www.publico.elix.pt/shownews.asp?id=1256644&idCanal=34 (18.05.06).
75 “Anteprojecto de Proposta de Lei que regula as Condições de Entrada, Permanência, Saída e Afastamento de Estrangeiros do Território Português”, in: http://www.acime.gov.pt/
This new temporary visa congregates in only one document the nine different kinds of visas that exist in the present juridical regime of entrance, permanence, departure and expulsion of foreign citizens from the Portuguese territory. A unique title will also be created for all those that live legally in Portugal, creating a statute of long term resident. This corresponds to the transposition of the Community Directive 2003/109/CE, from the 25th November 2003, and it will allow to migrants a major mobility in the European space according to the needs and labour market opportunities. This new statute will also promote the equality of treatment to migrants who possess this document.

Although the draft-project of the new immigration law did not foresee an extraordinary regularisation process, the exceptional possibilities of granting a residence permit to immigrants in irregular situation are also enlarged. In which refers to family reunification, this draft-project has a less bureaucratic and more open model. The request for family reunification can be made during any time of the migrant’s permanence (while, in the previous laws, it was foreseen that to be able to make this request, the migrant should have been in Portugal for one year). Another enormous achievement is the fact that the right to family reunification is extended to de facto unions (depending the cancellation of the residence permit – granted through the family reunification – on the maintenance of the couple’s relation).

The measures against irregular migration will be harsher, stricter; those include the aggravation of the penalties in the cases of acts that can put at risk the life of migrants, as well as an aggravation of the fines to employers that contract illegal immigrants. This draft-project introduces major alterations in the way Justice should treat immigrants: preventive imprisonment should be applied exclusively to those who have committed a crime; to those who are in an irregular situation should be applied other measures, like the electronically surveillance or the installation in temporary centres or similar institutions.

A wider scope for the protection of victims of trafficking is also foreseen, like a living allowance, access to specialised medical treatment (and psychological assistance, if necessary). Likewise, the protection of the victims (and the grant of a residence permit, when they co-operate with Portuguese justice) as well as interpreter services are foreseen. However, the juridical text neglects the issue of the implementation of mechanisms of collecting data/statistics on the profile whether from the victims or the criminals. The relevance and treatment of these statistical data about human trafficking are international recommendations, for only like that it will be possible to have a real vision of this phenomenon, allowing creating the adequate answers, as well as establishing international comparisons.

The new legislation also introduces conditions for the refusal of entry or expulsion. For this reason, it will not be possible to expel from Portugal, as an accessory measure, all those persons that have lived in Portugal, that live in the country since an age inferior to ten years old.
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