



Interpretative Note on the Aliens Act – English Version

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Please note that this document is intended only for internal use.

The *Aliens Act* governs the stay, exit and removal of foreign nationals from Portugal.

The Interpretative Note on the Aliens Act was first written in Portuguese by INESC TEC's Legal Service (AJ). It singles out the Act's provisions specifically related to the very specific circumstances justifying the entry into Portugal of most of INESC TEC's foreign collaborators - to carry out research, sometimes as part of their enrolment in an academic course in Portugal. It also contains additional explanations on the extent of some amendments/provisions.

The AJ's document has now been translated to English, in a collaborative work between the International Relations Service (SRI) and the Area of Translation of the Communication Service (SCOM), with the purpose of allowing INESC TEC's foreign staff who are not proficient in Portuguese to understand what the *Aliens Act* entails, most notably for non-Portuguese citizens moving to Portugal to study in a Higher Education Institution or carry out R&D activities.

To consult this law's full original version, please click [here](#) (Portuguese version).

The Interpretative Note on the Aliens Act does not replace the read of the Act.

ALIENS ACT

(Act 23/2007 of 4 July, amended by Acts 29/2012 of 9 August, 56/2015 of 23 June, 63/2015 of 30 June, 59/2017 of 31 July and 102/2017 of 28 August)

The **Act 59/2017** of 31 July, in effect since **5 August 2017**, amended the Articles 88 (Residence permits for professional activity employment), 89 (Residence permit for self-employment purposes) and 135 (Restrictions to forced removal or expulsion) of Act 23/2007.

The **Act 102/2017** of 28 August, in effect since **26 November 2017**, introduced several changes to the Aliens Act, as well as the transposition of three EU Directives referring to the conditions on the entry and stay of third-country nationals: for the purposes of seasonal work; transfer between branches of the same company; research, studies, training, voluntary service and student exchange schemes. This Act is expected to speed up the granting of residence permits.

The amendments introduced by the **Act 102/2017** of 28 August will lead to some changes in the types of visas, the periods to issue a decision and the activities allowed for each visa type.

There are also new mechanisms that promote the mobility of students and researchers within the European Union.

NOTE:

The research activity – established by the articles concerning highly qualified activity in the previous Act, and therefore having the same or similar treatment - is now, in terms of residence visas and residence permits, in a different article, alongside visas for study, secondary education students exchange schemes, training and voluntary service. This amendment led to the loss of some benefits that had been extendable to research activities, such as shorter periods devoted to issuing a decision (Article 61, paragraph 3) and fee exemption (Article 210, paragraph 2, point a)).

DEFINITIONS (Article 3)

Point a) “Highly Qualified Activity”, is the activity that requires technical and specialised competencies, or competencies of exceptional nature and thereby requires adequate qualifications for its performance;

Point l) “Unremunerated Trainee”, a third-country national with a higher education diploma, or who is studying to obtain a higher education certificate in a third-country, and who has been admitted in national territory for a training period without remuneration under national legislation;

Point m) “University Student”, a third-country national accepted by an establishment of higher education to pursue, as his/her main activity, a full-time course of study leading to a higher education qualification or certification officially recognised, namely a diploma, a certificate or a PhD; this may include a preparatory seminar for the main course or mandatory training within the curriculum;

Point q) “Researcher”, a third-country national, holding a PhD qualification or other appropriate higher education qualification that grants access to PhD programmes, who is selected by a research centre or a higher education institution to conduct a research project, for which the above qualification is normally required;

NOTE:

In the previous version of the Act, the definition of “Researcher” merely required the third-country national to hold an “appropriate higher education qualification or to be admitted by a research centre to carry out a research project that normally requires such qualification.” There seems to be an increase in foreign researchers’ required qualification, seemingly excluding equivalents to graduates who do not have direct access to PhD programmes.



Paragraph oo) “Research” comprises the creative work carried out systematically to increase knowledge, including social, cultural and human knowledge, as well as the use of said knowledge for innovative applications;

Paragraph pp) “Research Centre”, as a public or private entity that carries out research;

Paragraph qq) “Host Entity”, such as research centres, higher education institutions, teaching organisations or other organisations hosting a voluntary service or welcoming volunteers, located in the national territory and to whom the third-country national is associated – according to the present law, regardless of their legal form or designation;

Paragraph tt) “Hosting Agreement”, contract or other document signed by the research centre or higher education institution and the researcher, establishing the title, subject or field of research, the start and end dates or estimated duration and, where applicable, information on the expected trips to the other EU Member States. In addition, in such cases where the researcher remains illegally in national territory, the centre or institution shall reimburse the Portuguese State and cover all stay and removal expenses.

I – TYPES OF VISAS REQUIRED TO CONDUCT SCIENTIFIC RESEARCH ACTIVITIES AT INESC TEC

*If the estimated period of activities is **less than a year**, a **Temporary stay visa to conduct research activities** might be required, in accordance with Articles 54 and 57*

Article 54

Temporary stay visa

1. The temporary stay visa enables the entry and stay in the national territory **for a period of less than one year**, for the purposes of:

- c) Carrying out a self-employed activity;
- d) Conducting, in national territory, **scientific research** in research centres, a **teaching activity** in a higher education institution, or a **highly qualified activity** for less than one year;
- (...)

2. Without prejudice to the special provision requirements, a temporary stay visa shall be granted for the duration of the stay and valid for multiple entrances into national territory.

3. The maximum period for deciding on a temporary stay visa is 30 days from the beginning of the visa application examination.

Article 57

Temporary stay visa for conducting research or a highly qualified activity

The temporary stay visa may be granted to third-country nationals who intend to conduct research, a teaching job in a university or equivalent higher-level teaching institution or a highly qualified activity for less than one year, provided that:

- a) They are admitted for purposes of taking part in a research centre which is duly recognised by the Ministry of Education and Science, specifically by means of an actual or promised employment contract, an actual or promised contract for the provision of services, or a research grant for scientific purposes;

If the estimated period of activities is one or more years, a residence visa for research might be required according to Articles 52, 62, 91-B and 91-C.

Article 52

General conditions for granting residence, temporary and short-stay visas

1. Without prejudice to the special conditions for granting each type of visa and to the special arrangements set out in agreements, protocols or similar instruments, treaties and international conventions to which Portugal is Party to, residence, temporary stay and short-stay visas shall only be granted to third-country nationals who meet the following requirements:

(...)

- b) Are not the subject of an alert in the Schengen Information System (SIS) by any of the Member States, for purposes of refusing entry;

(...)

- d) Hold sufficient **means of subsistence**, as defined by regulatory order of the members of the Government responsible for internal affairs and solidarity and social security;

(...)

- f) Are covered by travel insurance;

2. In order to be granted a temporary or short-stay visa, the third-country national shall also hold a ticket ensuring his/her return.

3. The issuing of a residence or temporary visa is refused to any third-country national who has been convicted of a crime which, according to the Portuguese legal framework, is punishable

by imprisonment for one year or more, even if the sentence has not been served, or if its execution has been suspended.

(...)

7. For the purposes of **paragraph 1, d)**, and concerning the cases of **applicants for residence visas** for study, students exchange schemes, **research activities**, professional traineeships or voluntary service, the means available by way of grant, scholarship, contract, promised employment contract or statement of responsibility - issued by the organisation responsible for the students exchange scheme or voluntary service, or by the institution that welcomes the trainees – shall be taken into account, according to an individual examination.

8. The residence visas granted for study, students exchange schemes, **research activities** or voluntary service shall mention the titles «researcher», «higher education student», «secondary education student», «trainee» or «volunteer», preferably under “observations”.

Article 58

Residence visa

1. The residence visa enables its holder to enter Portuguese territory to apply for a residence permit.

(...)

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

Article 61

Residence visa for conducting teaching, or highly qualified/cultural activities

1. Without prejudice to the application of the «EU Blue Card» requirements, foreseen by Article 121-A, a residence visa for conducting teaching in an educational or professional training institution, or for highly-qualified or cultural activities, shall be granted to the third-country national, provided that he/she meets the conditions of Article 52 and presents:

- a) A contract, a promised employment contract or a contract for the provision of services; or
- b) An invitation letter issued by the education or professional training institution; or
- c) A statement of responsibility by a recognised entity, as defined by regulatory order of the members of the Government responsible for internal affairs and solidarity and social security; or
- d) Invitation letter issued by a company or entity that carries out cultural activities in the national territory, and is recognised by the members of the Government

- responsible for culture as being of particular interest to the country, as defined by law;
or
e) Invitation letter issued by a research centre.

2. (Revoked)

3. The period to issue a decision on the application for this residence visa is 30 days.

NOTE:

The 30-day period foreseen by Article 61, which, in the previous version of the Act, included the research activity, is only applicable to residence visas for conducting teaching, highly qualified or cultural activities, meaning that the general period of 60 days is now valid for the residence visas for research. However, the 30 days to issue a decision on the application for a residence visa for research is still referred to in 1.e) and SEF's portal.

Article 62

Residence visa for research, study, secondary education students exchange schemes, traineeships or voluntary service schemes

1. A residence visa to obtain a residence permit for conducting **research** or to attend higher education study programmes, secondary education students exchange schemes or a traineeship shall be granted to researchers, university students, secondary education students, trainees or volunteers, provided that:

- a) They meet the general conditions of Article 52;
- b) They have health insurance, or equivalent, with coverage lasting the expected period of the stay.
- c) They meet the special conditions foreseen by this Article.

2. **Researchers** applying for a **research visa** in the national territory must provide a contract or hosting agreement, signed by a research centre or higher education institution; researchers admitted to a research centre or higher education institution, benefiting from a scholarship or grant, must provide a statement of responsibility issued by the research centre or higher education institution which ensured their admission, as well as proof of means of subsistence.

3. Researchers admitted to a research centre or higher education institution officially accredited under the conditions of Article 91-B are exempt from the presentation of documents proving the conditions of 1 b) and 2, as well as the provisions of 1 d) and f) and paragraph 3 of Article 52.

(...)

9. For the purpose of granting a residence visa under the present Article, the minimum amount of subsistence expenses provided for in the regulatory order referred to in **Article 52, paragraph 1, point d)** may be waived, according to the circumstances of the specific case.

10. The procedure for granting a residence visa to third-country nationals referred to in paragraph 1, who participate in **community programmes for the promotion of mobility in the EU or the Community of Portuguese-speaking African countries** (or in their interest), shall be simplified – according to the provisions defined by the regulatory order of the members of the Government responsible for internal and foreign affairs.

Article 71

Extension of stay

1. Foreign citizens, who have been admitted in the national territory under the provisions of this Act and wish to remain in the country for a period that exceeds that originally permitted, may be granted an extension of stay.

(...)

5. The temporary stay visa issued for the purposes of doing research or undertaking a highly-qualified activity may only be extended if the applicant holds a work contract, a contract for the provision of services or a scientific research grant, and is covered by the National Health Service or health insurance.

6. Except in duly substantiated cases, the extension of the stay to holders of a residence visa for the purposes of employment, self-employment and doing research or undertaking a highly-qualified activity is conditional upon the safeguarding of the conditions that grounded the admission of the foreign citizen.

Article 72

Limits of the extension of stay

1. The extension of stay may be granted:

(...)

c) Up to 90 days if the applicant holds a residence visa;

(..)

e) Up to one year if the applicant holds a temporary stay visa.

Article 77

General conditions for granting a temporary residence permit

1. Without prejudice to the special conditions applicable, in order to obtain a residence permit, the applicant must cumulatively meet the following requirements:

- a) Hold a valid residence visa, granted as per one of the purposes established in this Act as grounds for issuing a residence permit;
- b) Absence of any fact that, if known by the competent authorities, could preclude the granting of that visa;
- c) To be present in the Portuguese territory;
- d) To hold means of subsistence, such as defined by the regulatory order referred to in paragraph 1 (d) of Article 52;
- e) To have accommodation ensured;
- f) Being registered with Social Security, whenever applicable;
- g) Not having been convicted for any crime punishable by imprisonment for more than one year;
- h) Not being subject to an entry ban into the national territory as a result of a removal order from the country;
- i) Not being the subject of any alert in the Schengen Information System;
- j) Not being the subject of any alert in SEF's Integrated Information System for purposes of refusing entry, in accordance with Article 53.

2. Without prejudice to the special legal provisions applicable, a residence permit may be refused on the grounds of public order, security or health.

3. The refusal of residence permit on the grounds of public health may only be based on diseases that have been defined in the applicable instruments of the World Health Organization, or on other infectious or contagious parasitic diseases that have been the object of protection measures in the national territory.

4. A medical examination may be required to applicants of a residence permit to establish that he/she does not have any of the abovementioned diseases and determine the adequate medical measures.

5. The medical examinations and measures to which the preceding paragraph refers to may not be systematically performed.

Article 82

Decision and notification

1. The application for a residence permit shall be decided within 60 days.

2. The application for renewing a residence permit shall be decided within 30 days.
3. In the absence of a decision within the period provided for in the preceding paragraph, the decision is considered favourable for reasons not attributable to the applicant and the residence title immediately issued.

Article 83

Rights of a residence permit holder

1. Without prejudice to the application of special provisions and other rights established in the law, or international conventions that Portugal is a Party to, the holder of residence permit is entitled, without the need to get a special authorisation on the grounds of being a foreign citizen, to:

- a) Education and teaching;
- b) Employment;
- c) Self-employment;
- d) Professional guidance, training, further training and retraining;
- e) Health care;
- f) Access to the law and courts.

2. The application of provisions that guarantee equal treatment to foreign citizens shall be ensured, particularly in what concerns social security, tax benefits, trade union memberships, recognition of diplomas, certificates and other professional credentials or documents granting them access to goods and services made available to the public, as well as the application of provisions that grant them special rights.

Article 91-B

Residence permit granted to researchers

1. A residence permit shall be granted to the researcher holding a residence visa issued under Article 62, provided that he/she is allowed to collaborate in an **officially recognised research centre**, namely through an **employment contract**, a **contract for the provision of services**, a or a **hosting agreement**, in addition to the conditions set out in Article 77.
2. Researchers admitted to officially recognised research centres are exempt from the presentation of the supporting documents referred to in Article 77, paragraph 1 (d), (e) and (f).



3. The **certification of research centres** for the purposes of the preceding paragraph shall be granted **upon request and preceded by a favourable opinion from SEF**, valid for five years.
4. The said certification shall be revoked or not renewed whenever the research centre ceases to operate in the national territory, obtains fraudulent endorsement or admits fraudulent or negligent researchers or higher education students.
5. The **member of the Government responsible for science and higher education** shall keep an **updated list of research centres and institutions approved** for the purposes of the present law in cooperation with SEF.
6. The residence permit granted to researchers is valid for one year, renewable under the terms of **Article 78**, provided that the conditions of the grant are maintained.
7. The residence permit granted to researchers admitted to European Union or multilateral programmes, including **mobility programmes**, is valid for **two years or the duration of the hosting agreement, if shorter** - except in cases where researchers do not comply with the conditions of Article 62 at the date of grant, hence reducing the said period for one year.
8. The hosting agreement shall expire if the researcher is not admitted to the national territory or if the legal relationship between the centre/institution and the researcher ceases to be valid.
9. Whenever the researcher has legally entered the national territory, he/she shall be **exempted from the residence visa** issued under Article 62.
10. The researcher holding a residence permit issued under this Article shall be entitled to **family reunification** under subsection IV or the hosting agreement.

Article 91-C Mobility of researchers

1. A third-country national holding a «**researcher**» or «**researcher-mobility**» residence permit, granted by an **EU Member State**, shall be authorised to enter and stay in the national territory, in order to carry out part of the research in a **recognised body** in the national territory, or to **teach** at any Member State, **for a maximum of 180 days over a 360-day period**. The right to accompany the holder of the said residence permit shall be applied to his/her family members, based on the residence permit issued by each Member State, the condition of owning a valid passport and not being the subject of an alert in the Schengen Information System (SIS), for purposes of refusing entry.

2. Without prejudice to the conditions of the previous paragraph, a third-country national with a «researcher» or «researcher-mobility» residence permit granted by an EU Member State, and who wishes to remain in national territory for more than 180 days, in order to do research in a recognised host entity (including teaching activities), shall apply for a **long-term mobility permit** issued by SEF, in accordance with the provisions of this Article.

3. The application referred to in the preceding paragraph and, where applicable, the application for a residence permit for the purpose of family reunification shall be submitted within 30 days after entering the national territory or 30 days before the end of the 180-day period provided for therein, if the researcher meets the provisions of paragraph 1.

The said application shall be accompanied by supporting documents proving that he/she holds a valid residence permit issued by another Member State and complies with the conditions established by Articles 77 and 91-B.

4. For the purposes of the application and pending the procedure, the applicant for the said permit is authorised to:

- a) Remain in the national territory without a mandatory visa requirement;
- b) Carry out part of its research until the end of the period of the decision to issue a long-term mobility permit, provided that the 180-day period for short-term mobility or the expiration date of any residence permit issued by other EU Member State is not exceeded;

5. In what concerns renewal procedures, the residence permit for long-term mobility shall remain in force, even if that issued by other EU Member State has expired.

6. The decision on the application provided for in paragraph 3 shall be communicated to the applicant through a written document, no more than 90 days after the date of submission; it shall also be presented to the authorities of the EU Member State that issued the residence permit, preferably via electronic submission.

7. The renewal of a residence permit for long-term mobility shall comply with Article 78 and the present subsection provisions.

8. The application for the conceding or renewal of a long-term mobility permit may be rejected if:

- a) The conditions set out in Article 91-A, paragraph 3 are not fulfilled, or the provisions of Article 95 come in force;
- b) The holder is considered a threat to public order, public safety or public health, or if the residence permit issued by other EU Member State has expired or been cancelled during the period to issue a decision on the application;

9. The cancellation or non-renewal of the long-term mobility permit shall comply with Article 85, paragraph 1 and Article 95, paragraph 2.

10. Decisions regarding the refusal to grant or renew or to cancel the residence permit for long-term mobility of researchers shall comply with the provisions of Article 96, paragraphs 4 and 6.

11. In accordance with the present Article, the researcher holding a long-term mobility permit shall be issued a residence permit complying with the model provided for in Regulation (EC) number 1030/2002, from 13 June 2002. The words «**researcher-mobility**» should be included in the «type of permit» section.

12. The family members of the researcher holding a long-term mobility permit shall be granted residence permits for the purpose of family reunification, according to the conditions of the current Act, and both applications may be filled in simultaneously, under the same procedure.

13. For the purposes of paragraph 1, and whenever the residence permit is granted by a Member State that does not fully apply the Schengen acquis, the SEF may require a statement from the hosting entity specifying the residence conditions, as well as a valid residence permit and further evidence that family members are actually living with the researcher.

14. The researcher and family members holding a residence permit issued under Article 91-B, may enter and stay in national territory, even if they no longer meet the mobility conditions of any EU Member State, or their residence permit has expired/been cancelled during the period of mobility in the said Member State.

Article 96

Procedure, access to information and procedural safeguards

1. According to the conditions of the present subsection, the application for the granting or renewal of a residence permit shall be submitted by the third-country national to the SEF management or regional office closest to his/her residential area.

2. The said application shall be accompanied by supporting documents showing that the applicant meets the conditions provided for in the present subsection.

3. The applicant shall have access to information about the legal documentation required under the procedures provided for in the present subsection, the rules of entry and stay in the national territory, the effective rights, the obligations and the procedural guarantees (civil or

judicial). Where applicable, the researcher and his/her family members shall also be provided with information about the resources needed to cover the study or training expenses and fees.

4. If the applicant's information or documentation is insufficient, the examination of the application shall be suspended; the requested additional information or documents shall be supplied within a 10-day period.

5. The decision on the application for the granting or renewal of a residence permit shall be made and communicated to the applicant within a time limit that does not prevent the continuation of the activity concerned; it may not exceed 90 days from the submission of the application, or 60 days in the case of a higher education student or researcher admitted to an officially recognised host, following articles 91 and 91-B.

6. The decision denying the granting or renewal of the residence permits provided for in this subsection shall be communicated to the applicant through a written document, stating the respective grounds, the right of judicial review and the corresponding deadline and competent court.

7. The holders of the permits granted under this subsection shall be issued a residence permit complying with the model concerning third-country nationals, provided for in Regulation (EC) number 1030/2002, from 13 June 2002. The words «**researcher**», «higher education student», «secondary education student», «trainee» or «volunteer» should be included in the “type of permit” section.

8. Whenever **researchers** are granted a residence permit under a specific EU or multilateral programme, **including mobility programmes**, the residence permit shall include the words «**researcher-mobility**».

Article 97

Pursuing a paid professional activity

1. Secondary education students, trainees or volunteers holding residence permits issued according to this subsection shall be prohibited from engaging in any paid, subordinate or self-employment activities.

(...)

3. A **researcher** holding a residence permit issued under this subsection may pursue a teaching activity according to the law.

Article 97-A

Equal treatment

1. Without prejudice to the provisions of article 97, holders of residence permit for the purposes of research and study in higher education shall benefit from the same treatment as national citizens, in accordance with Article 83, paragraph 2 - including in labour matters, where applicable.
2. The holders of residence permits for study in secondary education, traineeship or voluntary service shall benefit from the same treatment as national citizens, namely concerning:
 - a) The recognition of diplomas, certificates and other professional qualifications;
 - b) The access to public resources and services under the same conditions as national citizens.

II – TYPES OF VISAS REQUIRED TO ATTEND HIGHER EDUCATION STUDY PROGRAMMES OR FOR HIGHER EDUCATION STUDENT MOBILITY SCHEMES

*If the purpose of the visa is to attend a higher education study programme, the applicant should request the following: **residence visa for study**, as provided for in Articles 62, 63, 91 and 91-A.*

Article 62

Residence visa for research, study, secondary education students exchange schemes, traineeships or voluntary service schemes

1. A **residence visa to obtain a residence permit** for conducting **research** or to attend higher education study programmes, secondary education students exchange schemes, or a traineeship shall be granted to researchers, university students, secondary education students, trainees or volunteers, provided that:
 - a) They meet the general conditions of Article 52;
 - b) They have health insurance, or equivalent, with coverage lasting the expected period of the stay.
 - c) They meet the special conditions foreseen by this Article.
- (..)
3. Researchers admitted to a research centre or higher education institution officially accredited under the conditions of Article 91-B are exempt from the presentation of documents proving the conditions of 1 b) and 2, as well as the provisions of 1 d) and f) and paragraph 3 of Article 52.
4. A **higher education student** complying with the conditions of **Article 3, point m)** shall prove that: i) he/she meets the conditions of admission or has been accepted in a higher education

institution, for the purpose of attending a study programme and ii) that he/she has sufficient resources to complete said programme.

5. A higher education student admitted to a higher education institution approved under the terms of **Article 91, paragraphs 5) and following** is exempt from the presentation of supporting documents proving the provisions of paragraph 1, point b), as well as the provisions of **Article 52, paragraph 1, points d) and f).**

(...)

9. For the purpose of granting a residence visa under the present Article, the minimum amount of subsistence expenses provided for in the regulatory order referred to in **Article 52, paragraph 1, point d)** may be waived, according to the circumstances of the specific case.

10. The procedure for granting a residence visa to third-country nationals referred to in paragraph 1 and participating in **community programmes for the promotion of mobility in the EU or the Community of Portuguese-speaking African countries** (or in their interest), shall be simplified – according to the provisions defined by the regulatory order of the members of the Government responsible for internal and foreign affairs.

Article 63

Residence visa within the framework of higher education students' mobility

1. The mobility of higher education students residing in an EU Member State and wishing to attend part of a study programme in Portugal, or complement it with a study programme provided by a higher education institution in Portugal, shall comply with the provisions of **Article 91-A**. No residence visa is required for entry and stay.

Article 91

Residence permit granted to students in higher education

1. A residence permit shall be granted to the higher education student who holds a residence visa issued in accordance with the provisions of Article 52 and meets the conditions of Article 77, provided that the applicant:

- a) Proves to be enrolled in a higher education institution;
- b) Proves to have paid the respective fees, where applicable;
- c) Possesses means of subsistence, provided for in the regulatory order referred to in Article 52, paragraph 1, point d);
- d) Is covered by the National Health Service or has health insurance.

2. The residence permit granted under this Article is valid for one year and renewable for equal periods, provided that the conditions of the grant are maintained.
3. The residence permit granted to higher education students admitted to **European Union or multilateral programmes** (including mobility programmes) or as a result of an agreement between two or more higher education institutions, is valid for two years, or the duration of the study programme, if shorter - except in cases where applicants do not comply with the conditions of Article 62 at the date of grant, hence reducing the said period for one year.
4. A residence permit may be granted to a higher education student who does not hold a residence visa issued according to the conditions of Article 62, provided that he/she has legally entered the national territory and meets the other conditions set forth in this Article.
5. Higher education students admitted to a higher education institution approved for the purposes of the application of this law, and according to the regulatory order of the members of the Government responsible for internal affairs and higher education, are exempt from the presentation of supporting documents proving the payment of tuition or subsistence expenses.
6. For the purposes of the preceding paragraph, the higher education institution's approval shall be decided upon application and preceded by a favourable opinion from SEF, valid for five years.
7. The said approval shall be revoked or not renewed whenever the higher education institution ceases to operate in the national territory, obtains fraudulent endorsement or admits fraudulent or negligent higher education students.
8. The member of the Government responsible for science and higher education shall keep an updated list of higher education institutions approved for the purposes of the present law, in cooperation with SEF.

Article 91-A

Mobility of higher education students

1. **Higher education students** holding a residence permit granted by an EU Member State, and admitted to a European Union or multilateral programme (including mobility programmes), or as a result of an agreement between two or more higher education institutions, are allowed to enter and stay on national territory, in order to carry out part of a study programme - including to pursue a professional activity (in accordance with Article 97) for a maximum period of 360 days, provided that they communicate it to SEF up to 30 days before the mobility period.

2. The communication referred to in the preceding paragraph must be accompanied by proof of the respective situation, and the applicant must comply with the following conditions:

- a) Possessing a valid passport and residence permit issued by other EU Member State, valid for the period referred to in paragraph 1;
- b) Having health insurance, as well as sufficient means of subsistence, provided that he/she does not benefit from supplementary payments from the Citizenship Social Protection System by Social Security;
- c) Payment of fees, where applicable.

3. SEF may not authorise the entry or stay when the person involved constitutes a threat to public order, public safety or public health.

4. The entry and stay of third-country nationals not covered by the programmes or agreements referred to in paragraph 1 shall comply with the provisions of articles 52, 62 and 91.

5. SEF opposes the mobility of higher education students in the following situations:

- a) When the conditions provided for in paragraph 1 are not met;
- b) When the conditions provided for in paragraph 2 are not met;
- c) When the conditions of **Article 95** are fulfilled;
- d) Whenever the maximum period of 360 days referred to in paragraph 1 is exceeded.

6. The decision referred to in the preceding paragraph shall be communicated to the person concerned through a written document. Said document shall also be sent to the EU Member State's authorities that granted him/her the residence permit. This process shall take place within a 30-day period after receiving the communication referred to in paragraph 1, and the said document shall inform that the person concerned is not authorised to remain in the national territory for the purpose of higher education study programmes.

7. If the SEF does not oppose mobility under the preceding paragraphs, it shall issue a statement informing that the higher education student is authorised to remain in national territory, thus benefiting from the rights provided for by law.

8. The student holding a residence permit issued under Article 91, may enter and stay in national territory, even if they no longer meet the mobility conditions of any EU Member State, or their residence permit has expired/been cancelled during the period of mobility in the said Member State.

- Application of the provisions of **Article 96**, relating to **higher education students**

Article 97

Pursuing a paid professional activity

(...)

2. A higher education student holding a residence permit issued under this subsection may pursue a professional, subordinate or self-employed activity, provided that he/she notifies the SEF and delivers an employment contract (in compliance with the law) or the declaration of the commencement of an activity granted by the tax authorities, as well as proof of social security admission.

III – TYPES OF VISAS REQUIRED TO ATTEND TRAINING PROGRAMMES OR TRAINEESHIP SCHEMES

*If the purpose of the visa is to attend a training programme in the context of unremunerated work or a traineeship scheme, the applicant should request the following: **residence visa for traineeship, as provided for in Articles 62 and 93.***

- Application of the provisions of **Articles 62 and 96**, relating to **traineeships**

Article 62

(...)

7. A **trainee** meeting the conditions of **Article 3 (I)** must prove that he/she has been **accepted as a trainee by a certified host entity** and present a theoretical and practical training contract, in the field of his/her higher education diploma or the course he/she attends; said document shall include:

- a) A description of the training programme, goals or learning components;
- b) The training duration and schedule;
- c) The location and monitoring elements of the traineeship;
- d) A description of the legal relationship between the trainee and the host entity;
- e) A statement substantiating that the traineeship does not replace a position and that the host entity will reimburse the Portuguese State and cover all stay and removal expenses if the trainee remains illegally in the national territory.

Article 93

Residence permit for unremunerated trainees

1. A residence permit shall be granted to the trainee who holds a residence visa issued in accordance with the provisions of Article 62 and meets the conditions of Article 77, provided

that the applicant is covered by the National Health Service or has health insurance, as referred to in Article 62, paragraph 7.

2. The residence permit granted to trainees is valid for six months or the internship's duration (if longer) and cannot be renewed.

3. A residence permit may be granted to a trainee who does not hold a residence permit issued under article 62, provided that he/she has entered/legally remains in national territory and complies with the provisions of this Article.

IV – TYPES OF VISAS REQUIRED TO CONDUCT TEACHING, HIGHLY QUALIFIED OR CULTURAL ACTIVITIES

*If the purpose of the visa is to conduct a teaching activity in an educational institution or professional training organisation, or a highly qualified or cultural activity, the applicant should request the following: **residence visa for conducting teaching, highly qualified or cultural activities, as provided for in Articles 61 and 90.***

Article 61

Residence visa for conducting teaching, highly qualified or cultural activities

1. Without prejudice to the application of the «EU Blue Card» requirements, foreseen by Article 121-A, a residence visa for conducting teaching in an education or professional training institution, or for highly qualified or cultural activities, shall be granted to the third-country national, provided that it meets the conditions of Article 52 and the applicant presents:

- a) A contract, a promised employment contract or a contract for the provision of services; or
- b) An invitation letter issued by the education or professional training institution; or
- c) A statement of responsibility by a recognised entity, as defined by regulatory order of the members of the Government responsible for internal affairs and solidarity and social security; or
- d) Invitation letter issued by a company or entity that carries out cultural activities in the national territory and is recognised by the members of the Government responsible for culture as being of particular interest to the country, as defined by law; or
- e) Invitation letter issued by a research centre.

2. (Revoked)

3. The period to issue a decision on the application for this residence visa is 30 days.

Article 90

Residence permit for conducting teaching, highly qualified or cultural activities

1. A residence permit for **conducting teaching** in a **higher education institution** or an **educational/professional training** establishment, or for pursuing **highly qualified** or cultural activities, shall be granted to third-country nationals who, in addition to the requirements provided for in Article 77, provide the following:

- a) A contract or a contract for the provision of services compatible with the teaching or highly qualified activities;
- b) An invitation letter issued by the education or professional training institution;
- c) A statement of responsibility by a recognised entity, as defined by regulatory order of the members of the Government responsible for internal affairs and economy; or
- d) Proof of collaboration in cultural activities in the national territory, namely in projects recognised by the members of the Government responsible for Culture as being of particular interest to the country.

2. The applicant is exempted from a residence visa whenever he/she has legally entered and remained in the national territory.

V – RESIDENCE PERMIT WITH RESIDENCE VISA EXEMPTION

Besides the situations foreseen in articles 90, 2; 91, 4; 91-B, 9; and 93, 3; the residence permit with residence visa exemption can be obtained in the following situations:

Article 122

Residence permit with residence visa exemption

1. The following third-country nationals are exempted from visa requirement for granting of temporary residence permit:

(...)

- o) Those who, having been given a residence permit for purposes of study under Articles 91 or 92, and having concluded them, wish to pursue a professional activity in national territory, as an employed or self-employed person, exception made in cases where the permit has been issued under cooperation agreements, and there are no solid grounds of national interest that may justify it;
- p) Those who, having been granted a residence permit to study under Articles 91 or 91-B, and having concluded them, wish to benefit from a maximum period of one year to pursue a professional activity or establish a company in national territory, according to their qualifications;

q) Those who having been granted a temporary stay visa for purposes of carrying out research or a highly qualified activity wish to pursue in the national territory a research activity, or a teaching activity in a higher education establishment, or a highly qualified activity, either as an employed or as a self-employed person.

3. In the situations provided for in paragraph 1 n), **o) and p)**, the provisions of Articles 88, 89 or 90 shall apply, adapted accordingly, depending on the case.

VI – CARRYING OUT AN UNAUTHORISED PROFESSIONAL ACTIVITY

Article 198

Carrying out an unauthorised professional activity

1. The exercise of a self-employed activity by a **foreign citizen**, who does not hold the appropriate residence permit when required, is an administrative offence punishable with a fine from €300 to €1200.

2. The perpetration of the offences provided for in this Article may lead to the enforcement of ancillary sanctions provided for in Articles 21 and following of the general framework of administrative offences [*Regime Geral das Contraordenações*].

Article 198-A

Employing an illegally-staying foreign citizen

1. Whoever employs a foreign citizen who does not hold a residence permit or a visa authorising him/her to carry out a working activity is liable to the application of one of the following fines:

a) From €2000 up to €10 000, if employing one to four citizens;

b) From €4000 up to €15 000, if employing 5 to 10 citizens;

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

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

2. The perpetration of the offences provided in this Article may lead to the enforcement of the following ancillary sanctions:

- a) Those provided in Articles 21 and following of the general framework of administrative offences [*Regime Geral das Contraordenações*];
- b) Obligation to refund some or all public benefits, aids or subsidies, including European Union funding, granted to the employer for up to 12 months preceding the detection of illegal employment, when the offence occurred during the performance of duties or as a result of the performance of duties for which the allowance was granted;
- c) Obligation to publish the enforceable judgment.

3. Sanctions mentioned in paragraph 1 b) and g) of Article 21 of the general framework of administrative offences [*Regime Geral das Contraordenações*], when applied pursuant to the provisions of the previous paragraph, have a maximum duration of five years.

4. The ancillary sanction referred to in paragraph 2 c) of this Article requires:

- a) The publication, at the expense of the infringer, of a statement holding the identification of the offender, the offence, the infringed rule and the enforced sanction on SEF's website, in a national newspaper and in a regional or local periodic publication of the area of the offender's headquarters.
- b) The statement referred to in the previous subparagraph shall be sent to the competent administrative authority whenever the performance or access to the activity provided by the offender requires administrative permissions, including permits, licenses, authorisations, validations, authentications, certifications and acts issued following previous contacts and records.

5. The employer, the user by means of a contract of provision of services, agreement for occasional employment or temporary work and the general contractor, are severally liable for:

- a) The payment of fines provided in the previous paragraphs and of outstanding pay of a work contract, its breach or termination;
- b) Sanctions imposed as a result of non-compliance with labour legislation;
- c) Sanctions resulting from non-declaration of income subject to discounts for tax authorities and social security regarding the work performed by the foreign citizen whose professional activity was illegally used;
- d) The payment of the costs regarding the stay and removal of the foreign citizens involved in the situation;
- e) The payment of any costs arising from sending outstanding payments to the country to which the illegally employed third-country national has, or has been, returned.

6. Also severally liable, under the provisions of the preceding paragraph, is the main contractor who does not get from the other contracting party the statement of compliance with legal requirements regarding hiring foreign citizens.

7. Failure to comply with the preceding paragraph's provisions may be liable to disciplinary action if the main contractor is Public Administration.
8. For purposes of calculating the outstanding pays and wages subject to contributions to tax authorities and social security, it is assumed that, without prejudice of the provisions of labour and tax legislation, the level of remuneration is at least the minimum monthly salary guaranteed by law, in collective agreements or in accordance with practices established in the concerned areas of activity, and that the employment relationship has, at least, three months - except if the employer, the user of the activity, or the employed citizen prove otherwise.
9. In accordance with labour legislation, failure to comply with the provisions of paragraphs 5 and 6 is considered a very serious administrative offence.
10. If the employer does not pay for any outstanding remuneration for the work actually provided, as well as any costs arising from the stay and removal of the involved foreign citizens, the settlement note produced in the respective process represents an enforcement note. In this situation, rules on the common enforcement procedure apply for payment of the proper amount.
11. If the offender is a legal person or equated, he/she is severally liable for the payment of the fine with the managers, directors or administrators.

IN SHORT:

- 1) Both **research grant holders** and the **employees conducting research activities** can request a visa provided for in Article 57 a) (**Temporary stay visa for conducting research activity**) if the duration of the activity is under one year; or the visa referred to in Article 62, paragraph 1 (**Residence visa for research**) if the duration of the activity is of one year or more.
- 2) The foreign citizens whose lone activity is to attend a higher education study programme and those admitted to an unremunerated traineeship scheme should apply for the **residence visa for study or traineeships schemes**.
- 3) Both can apply for a **temporary residence permit** as long as all criteria are met.
- 4) The foreign citizens holding a **residence permit for a research activity** can also conduct a **teaching activity**.
- 5) **Higher education students** can carry out professional activities, both **subordinated** (contract of employment) or on a **self-employed** basis (contract for the provision of services).