

Family Reunification

**11 International Metropolis Conference
Lisbon, October 4, 2006**



Alto Comissariado para a Imigração e Minorias Étnicas

ENTRANCE, PERMANENCE, DEPARTURE AND EXPULSION OF FOREIGN CITIZENS

During the 70 s:
Disperse legislation



Nothing on Family Reunification!!

ENTRANCE, PERMANENCE, DEPARTURE AND EXPULSION OF FOREIGN CITIZENS

1981:

- Concentration in one single instrument
(Decree Law 264 – B/81, September 3)
- Revocation of inadequate rules
- Regulation of new situations

DECREE LAW 264 – B / 81
SEPTEMBER 3

- **Article 31**

The Residence Authorisation request could be extended to minors under 14 years of age if they were under the petitioner's dependence

DECREE LAW 264 – B / 81
SEPTEMBER 3

- **Article 33**

These minors could request an individual residence title until 1 month after they had completed 14 years old

DECREE LAW 59/93, MARCH 3

- Article 28
 - First reference to the Family Reunification institute
 - Definition of Family Reunification beneficiaries

**DECREE LAW 59/93,
MARCH 3**

Beneficiaries:

- The spouse
- The descendants or adopted (minor or disabled with incapacity)
- The ascendants or the spouse's ascendants, if under the petitioner's dependence

LAW 17 / 96, MAY 24 REGULARIZATION PROCESS

- Article 9
 - Extension to the family members who resided with the petitioner:
 - The spouse
 - The descendants
(minor or disabled with incapacity)

DECREE LAW 244/98,

AUGUST 8

Chapter V

“Family Reunification”

Legal Requirements (Article 56)

1. The Beneficiary

- Be a Family Member
- Have lived in other country with the Resident or under the Resident's dependence

DECREE LAW 244/98, AUGUST 8

2. The Resident

- Habitation conditions
- Means of subsistence to supply for the family needs
- Residence Authorisation valid for at least one year

DECREE LAW 244/98, AUGUST 8

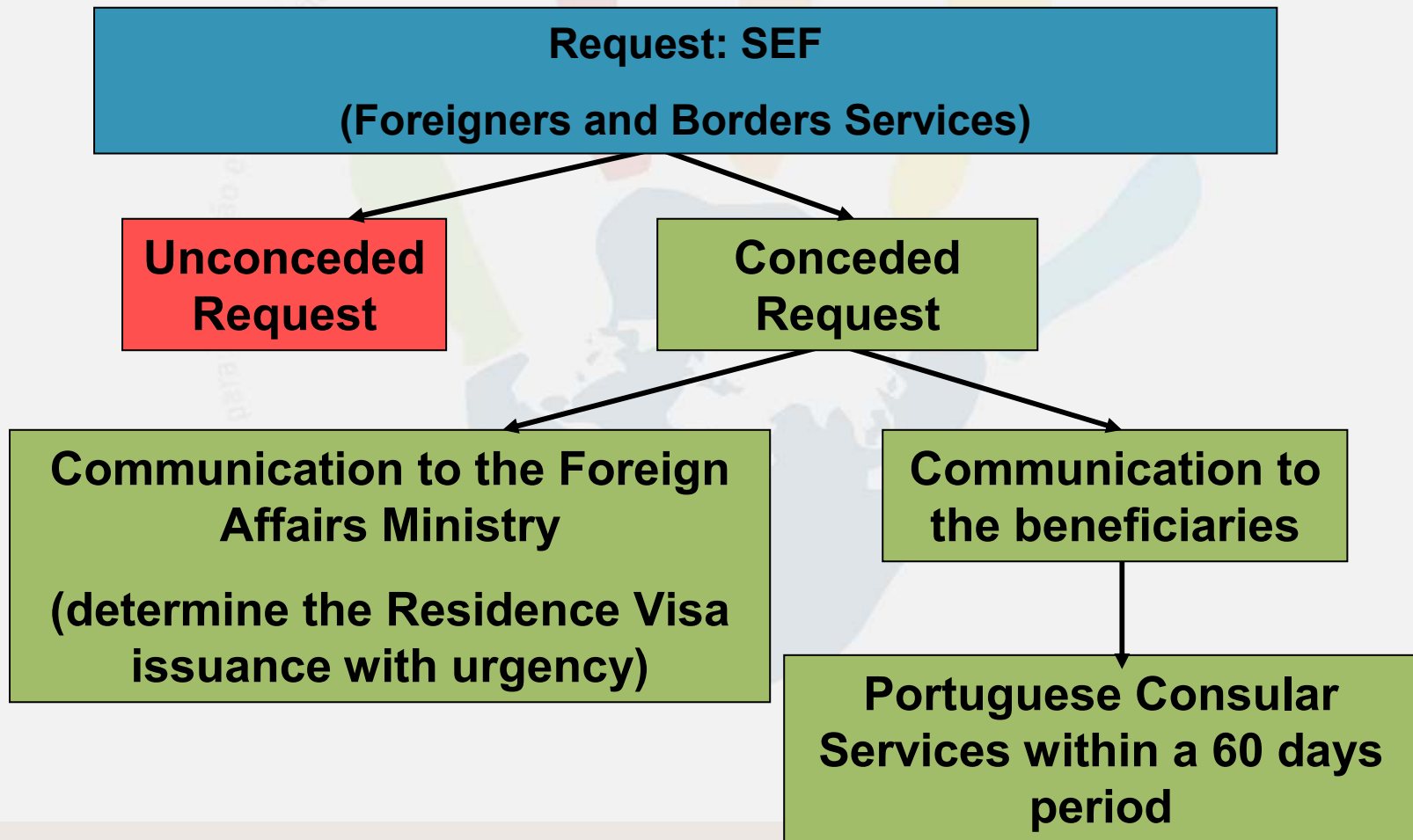
Beneficiaries (Article 57)

- The spouse
- The descendants, **under 21 years of age**, if dependant or disabled with incapacity
- The minors adopted by both spouses
- The ascendants or the spouse's ascendants, if dependent
- **The minor siblings under the Resident's custody**

Legal Proceedings

Regulator 5 – A/2000, April 26

(articles 29, 30, 31)



**DECREE LAW 4/2001,
JANUARY 10**

**Chapter V
“Family Reunification”**

Distinction between:

- **Family Members in their origin countries**
- **Family Members already in Portugal**

DECREE LAW 4/2001, JANUARY 10

Legal Requirements (Article 56)

1. The Beneficiary

- Be a Family Member
- Have lived in other country with the Resident or depend on the Resident
(The same)

DECREE LAW 4/2001, JANUARY 10

2. The Resident

- Habitation conditions
- Means of subsistence to supply for the family needs

(No longer the need of holding a Residence Authorisation valid for 1 year)

DECREE LAW 4/2001, JANUARY 10

- Beneficiaries (Article 57)
- The spouse
- The descendants, under 21 years of age, if dependant or disabled with incapacity
- The minors adopted by both spouses
- The ascendants or the spouse's ascendants, if dependent
- The minor siblings under the Resident's custody
(The same)

REGULATOR 9/2001, MAY 31 (ARTICLES 29, 30, 31)

- The legal proceedings: The same

Ato Confeccionado para a Imigração Minorias Étnicas

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TODAY
DECREE LAW 34/2003,
FEBRUARY 25

Chapter V
“Family Reunification”

Distinction between:

- Family Members in their origin countries
- Family Members already in Portugal

TODAY
DECREE LAW 34/2003,
FEBRUARY 25

Legal Requirements (Article 56.º)

1. The Beneficiary

- Be a Family Member
- Have lived in other country with the Resident or depend on the Resident

TODAY
DECREE LAW 34/2003,
FEBRUARY 25

2. The Resident

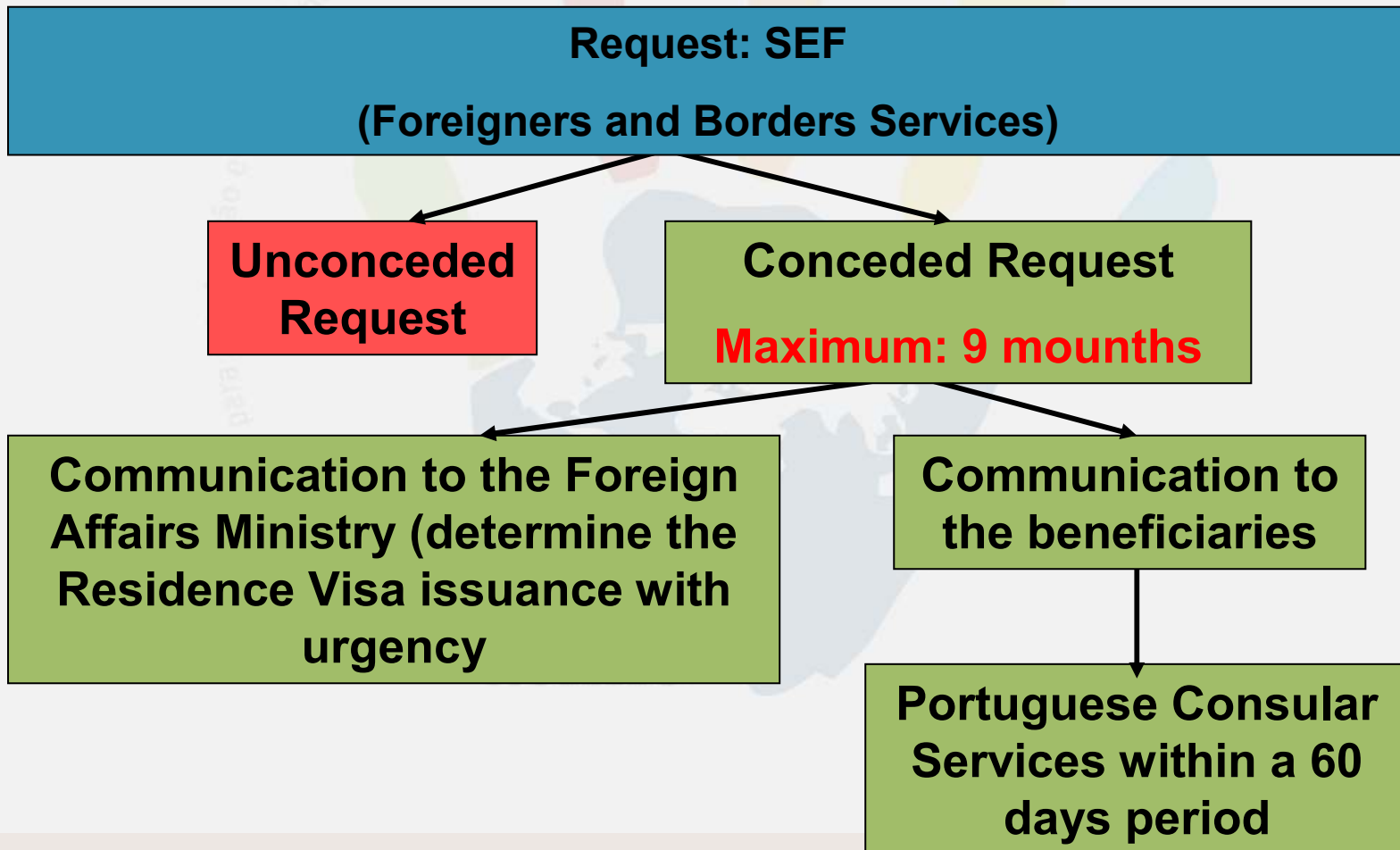
- Habitation conditions
- Means of Subsistence to supply for the family needs
- **Holding a Residence Authorisation for at least one year**

TODAY
DECREE LAW 34/2003,
FEBRUARY, 25

- Beneficiaries (Article 57)
 - The spouse
 - The minor descendants or those who have an incapacity, if dependent
 - The minors adopted by both spouses
 - The 1st degree ascendants or the spouse's ascendants, if dependent
 - The minor siblings under the Resident's custody

TODAY

Regulator 6/2004, April 26 (Articles 42, 43, 44 and 45)



MAIN DIFFICULTIES

- 9 months period for SEF to issue its opinion
- Visa's issuing – The process in the Consular Representations



**European
Legislation**
**European Directive
2003/86/CE**

ONE STOP SHOP

- Family Reunification Cabinet
 - Information
 - Instruction of process
 - Follow – up of process

THE FIRST STEP THE NEW LEGISLATION

- All immigrants in a regular situation will benefit from the right to Family Reunification
- The disappearance of the legal requirement of holding a title for at least one year
- SEF's date limit: 3 months (that can be extended for other 3 months in exceptional circumstances)

THE FIRST STEP THE NEW LEGISLATION

- Beneficiaries:
 - The spouse
 - The minor descendants or those who have an incapacity, if dependent
 - The minors adopted by both spouses
 - The ascendants or the spouse's ascendants, if dependent
 - The minor siblings under the Resident's custody

THE FIRST STEP THE NEW LEGISLATION

- Descendants above 18 years of age, if single, and dependent and if studying in a portuguese establishment
- The partner who has with the Resident a legaly recognised union

CONCLUSIONS: THE PRESENT CHALLENGES

- The tension between security measures and imigrant's fundamental rights
 - How should we deal with this conflict?
 - What are the State's Limits?



The main objective:

