Family Reunification

11 International Metropolis Conference
Lisbon, October 4, 2006

Alto Comissariado para a Imigração e Minorias Étnicas
During the 70s:
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)

Request: SEF
(Foreigners and Borders Services)

Unconceded Request

Conceded Request

Communication to the Foreign Affairs Ministry
(determine the Residence Visa issuance with urgency)

Communication to the beneficiaries

Portuguese Consular Services within a 60 days period
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)
• The legal proceedings: The same
TODAY
DECREE LAW 34/2003,
FEBRUARY 25

Chapter V
“Family Reunification”

Distinction between:
- Family Members in their origin countries
- Family Members already in Portugal
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
2. The Resident

- Habitation conditions

- Means of Subsistence to supply for the family needs

- Holding a Residence Authorisation for at least one year
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)

Request: SEF
(Foreigners and Borders Services)

Unconceded Request
Communication to the Foreign Affairs Ministry (determine the Residence Visa issuance with urgency)

Conceded Request
Maximum: 9 months
Communication to the beneficiaries

Portuguese Consular Services within a 60 days period
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 inacapacity, 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 legally recognised union
CONCLUSIONS: THE PRESENT CHALLENGES

• The tension between security measures and immigrant’s fundamental rights
  - How should we deal with this conflict?
  - What are the State’s Limits?
The main objective: