

YOUR BRIDGE

TO PORTUGAL

RESIDENCE PERMIT
FOR INVESTMENT ACTIVITY
GOLDEN VISA



BERNARDINO, RESENDE E ASSOCIADOS
SOCIEDADE DE ADVOGADOS RL | LAW FIRM



Photography: Antonio Sacchetti

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About BR Law Firm – Who we are

Bernardino, Resende E Associados, Sociedade de Advogados R.L., (BR), began its activity in 1999.

It's main objectives are: i) the provision of legal services of recognized merit and excellence; ii) maintaining its independence; iii) promoting institutional relations with lawyers and law firms in Portugal and abroad;

BR is a “boutique law firm” by it's size and organization, that works in specialized areas of law, basing its action on the following principles: Personalization, Excellence, Dedication, Organization and Professionalism of the Lawyers who are integrated in the law firm.

It's a law firm that remains true to the main principals that led to its foundation:

- Quality of the professional work of each member that integrates its team, supporting and promoting the continuous training of employees, sharing knowledge and publishing works in the areas of practice in which it operates;

Diário Económico Journal
Who is Who
Law Firms

10th Commemorative
Edition

"Main Portuguese offices"
... “where 34 Law Firms
were invited”

3 of December of 2014





- Strong relationship with the clients and thoroughness in legal services provided;
- Innovation capacity, through acquired experience;
- Integrity and respect for the ethical rules of the profession, by which we are governed;
- That share the same philosophy of our law firm;

BR within its business across borders, created the concept of **BR Alliance** aimed to provide domestic and foreign clients with legal services of excellence, integrated and tailored to their needs, promoting international partnerships and alliances with lawyers and law firms abroad.

Our ethical standards, thoroughness, tradition and innovation are shared and experienced by the whole team.





BR Alliance

BR provides legal services to domestic and foreign clients and considering our law firm's business across borders, we currently maintain several institutional connections with international associations of lawyers and law firms abroad. These connections allows our law firm to accompany Portuguese entrepreneurs, and to provide legal services according to the clients needs.



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Introduction

The Regulatory Decree n.º 15-A / 2015, published in the journal “Diário da República” on the 2nd of September of 2015, regulates the new types of foreign investment in Portugal, approved by the Law n.º 63/2015, of 30th of June, thus extending the possibilities of foreign investment for the purposes of granting a Residence Permit for Investment Activity ("ARI") or "Golden Visa".

New legal provisions opened the possibility of applying for a residence permit for an investment activity in Portugal to those who have entered the country regularly (v.g. holders of valid Schengen Visas, or beneficiaries of Visa exemption), by transferring capital, creating jobs or acquiring real estate in the country, extending to a total of 7 (seven) types or categories of Investment currently established by the law.



According to the recent legislative amendments, the investment activity must be carried out when the application for a residence permit is submitted to the portuguese immigration services “Serviço de Estrangeiros e Fronteiras” (“SEF”), and must be maintained for a minimum period of 5 years , starting from the date of the concession of the residence permit.

We highlight an important consideration under the current foreign investment law , in order to promote the decentralization of investment made in large urban areas, therefore allowing for the minimum amount required for the investment activity to be reduced by 20%, whenever the investment takes place in a "Low Density Population Territory".¹

¹ Low-density territories are considered the level III Territorial Units for Statistical purposes (“NUTS III”) with less than 100 inhabitants per km² or a gross domestic product (GDP) per capita less than 75% of the national average.

It should also be noted that the investment can be made through a commercial company, namely a sole shareholder company, with head office in Portugal, or in another member state of the European Union, with a permanent establishment in Portugal.

The holder and beneficiary of the residence permit for investment ("ARI") or "Golden Visa", has the legal right to reside and perform a professional activity in the country, and may also travel freely, without requiring a visa, within the countries of the "Schengen" Area.^{2,3}

The Investor may also obtain a Permanent Residence Permit after a period of 5 (five) years, and obtain Portuguese citizenship, after one (1) year, in accordance with the applicable legislation in force.⁴

² **The Schengen Area** is a group of 26 European states which have abolished passport and immigration controls at their common borders. It functions as a single country for international travel purposes, with a common visa policy.

³ **The holder of a residence permit for investment – “Golden Visa”** may travel freely in the Schengen Area (Germany, Austria, Belgium, Denmark, Slovakia, Slovenia, Estonia, Spain, Finland, France, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, the Czech Republic, the Netherlands, Poland, Portugal, Sweden and Switzerland).

⁴ **Permanent Residence Permit and Portuguese Citizenship**—The holder of the Golden Visa may obtain a **Permanent Residence Permit** after (5) years, as well as Portuguese citizenship 1 (one) year later, according to legal provisions in force, by meeting the following conditions: i) Has held a temporary residence permit for at least 5 years; ii) Possesses means of subsistence ; iii) Has guaranteed accommodation; iv) Has sufficient basic knowledge of the Portuguese language.



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Residence Permit for Investment Activities in Portugal

The Residence Permit for Investment Activity ("Gold" Visa) may be granted to third-country nationals (non-EU members) who carry out an investment activity in our country, maintained for a minimum period of 5 years, which leads to the verification of at least one of the following types of investment in the country:

I. Acquisition of property in an amount equal to or greater than 500 000 € (five hundred thousand euros):

The investment in the acquisition of the property must be in an amount equal to or greater than 500 000 € (five hundred thousand euros), and the investment may be made under joint ownership, provided that each of the co-owners invests at least 500 000 €;

The amount for payment of the price or down payment must derive from an international transfer to the bank account held in Portugal of which the Applicant is the



holder. The concession of the Residence Permit for Investment Activity ("ARI") or "Golden Visa" may be made on the basis of a promissory purchase and sale agreement - prior to the definitive purchase and sale contract, provided that the down payment paid in the promissory purchase and sale agreement is for the minimum amount of 500 000 €.

It is important to mention that, during the second renewal of the Residence Permit for Investment ("ARI"), which shall occur 36 months after the concession of the Residence Permit for Investment ("ARI"), the respective holder must submit the definitive purchase and sale contract and an updated certificate of the land register containing the registration of ownership of the property under the name of the applicant.

II. Acquisition of property, which construction has been completed for at least 30 years or located in urban rehabilitation area, with development of rehabilitation works of property in the amount equal or greater than 350 000 € (three hundred and fifty thousand euros):

A Residence Permit for Investment - "Golden Visa" can be granted through the acquisition of property which construction has been completed for at least 30 years or that is located in an urban rehabilitation area and, in addition, are carried out Rehabilitation works on the property⁵, in which case the amount of the investment is reduced to an amount equal to or greater than 350 000 € (three hundred and fifty thousand euros).

For the purposes of obtaining a residence permit for investment ("ARI"), the applicant must prove to be the owner, free of liens or charges on the property, and may submit the following documents that relate to the execution of the rehabilitation works – Proof of prior

⁵ Performing rehabilitation works of real estate purchased, in accordance with Decree-Law No. 307/2009, of 23rd of October - Legal Regime of Urban Rehabilitation.



information request at the Town Hall, or copy of the contract regarding the execution of the works in the purchased properties.

In any case, it is mandatory that cumulatively, the applicant deposits the difference between the purchase price of the property and the minimum investment amount required - to be used to pay the contract regarding the works on the property, into a bank account opened at a bank in Portugal, of which the Applicant is the holder.

It should be noted that the investor who opts for this type of investment may be exempted from payment of the Municipal Property Transfer Tax ("IMT") in the purchase of the property, as well as being exempted from payment of the annual Municipal Property Tax ("IMI") for a period of three (3) years after the purchase of the property.

III. Creation of at least 10 jobs:

In the case of investment that leads to the creation of at least 10 jobs, the applicant must prove to have employed 10 people, and registered the employees in the social security, by presenting an updated certificate issued by the Social Security authorities;

IV. Transfer of capital in an amount equal to or greater than 1 000 000 € (one million euros):

The transfer of capital in an amount equal to or greater than 1 000 000 € (one million euros) may be carried out in one of the following ways:

a) By means of Bank Deposits: The Applicant must have a bank statement in Portugal attesting to the ownership, free of liens or charges, of deposit accounts with a balance equal to or greater than 1 000 000 € (one million euros) resulting from an international transfer, or of a share in the same amount in the case of joint accounts.



b) Acquisition of Public Debt Securities of the Portuguese State: The Residence Permit for Investment ("ARI") can be obtained through the acquisition of Portuguese Public Debt, namely, treasury bonds, savings certificates or treasury certificates. For this purpose, the Treasury and Public Debt Management Agency - IGCP, E.P.E. shall certify the ownership, free of liens or charges, of one of those financial instruments in an amount equal to or greater than 1 000 000 €.



c) Acquisition of Securities and Shares in Commercial Companies: The Residence Permit For Investment ("ARI") may be obtained through the acquisition of book-entry securities or securities bearing the title or nominative (whether or not incorporated in a centralized system) in an amount equal to or greater than 1 000 000 €. In any of these cases, the applicant shall have a certificate of ownership, free of charge or charge, issued by the registrant or depositary, the issuer or the financial intermediary, respectively, for the purpose of concession of the residence permit for investment, as well as for the purposes of its renewal.

In the case of acquisition of shares in commercial companies, the applicant must submit an updated certificate of the commercial register and the respective copy of the contract of purchase of the shares, with mention of the amount of the respective purchase of the shares.



V. Transfer of capital in the amount equal to or greater than 500 000 € (five hundred thousand euros) for acquisition of shares in investment funds or venture capital aimed at the capitalization of small and medium-sized companies:

A Residence Permit for Investment ("ARI") may be granted to an investor who purchases for the price of at least 500 000 € (five hundred thousand euros), shares held in investment funds or venture capital aimed at the capitalization of small and medium-sized companies which present the capitalization plan. In addition, the company that manages the respective fund shall certify the feasibility of the capitalization plan.

VI. Transfer of capital in the amount equal to or greater than 350 000 € (three hundred and fifty thousand euros) Applied in research activities carried out by public or private scientific research institutions, integrated into the national scientific and technological system):

For this purpose, an international transfer must be made in the amount of equal to or greater than 350 000 € (three hundred and fifty thousand euros), to a bank account held by the applicant in Portugal and obtain a declaration issued by a public or private scientific research institution, Integrated in the national scientific and technological system, attesting the reception of these capitals.

VII. Transfer of capital in an amount equal to or greater than 250 000 € (two hundred and fifty thousand euros), which is applied in investment or support to the artistic production, recovery or maintenance of the national cultural heritage:

For this purpose, an international transfer must be made in an amount equal to or greater than 250 000 €



(two hundred and fifty thousand euros) to a bank account held by the applicant in Portugal, and obtain a declaration issued by the Office of Strategy, Planning and Cultural Assessments attesting the actual transfer of those capitals.





Residence Permit for Investment Activities (“Golden Visa”) – how to apply?

The request to obtain a “golden visa residence permit for investment ” should be submitted to the Portuguese immigration services (“**Serviço de Estrangeiros e Fronteiras**” abbreviated known as “**SEF**”).

The application must be submitted by previous appointment and with the competent application form and submitting the following legal documents:

- **Passport or travel document with a validity of at least three months;**
- **Valid Schengen visa, or a short term visa – In order for the Residence Permit to be granted, Non EU citizens must regularize their stay in Portugal, within 90 days of their first entry into the country.**



A short term visa – Schengen Visa, may be issued by the Portuguese Consulate in the country of origin.

- Proof of legal entry and stay in Portugal;
- Proof of health insurance;
- Request for consultation of criminal record at “SEF” (At the time of the request);
- Certificate evidencing that the applicant has not been found in default by any court of law;
- Sworn statement by the foreign national, attesting that the same will comply with the minimum quantitative and time requirements regarding the investment activity in Portugal;
- Declaration issued by the Portuguese Tax Authorities and Social Security attesting the inexistence of any debts of the foreign national to the said entities;

- Criminal record certificate of the country of origin, and of the country where the applicant has resided for more than one year, duly recognized by the Portuguese authorities (authentication by the Portuguese consulate or apostille);
- Proof of one of the 7 (seven) types of investment, mentioned above.

All foreign documents must be officially translated to Portuguese and apostilled (if no apostille is available, the certification of the documents and its translation to Portuguese is made in the Portuguese Consulate in the country of origin of the documents).

Once the request has been made with the Portuguese immigration authorities (SEF), with all the necessary documentation, the application request shall be legally decided within 90 days.

The Investor must consider the following general requirements, regarding the investment, and the required minimum stay period in the country:



- A five year minimum investment time is required, counting from the date of the granting of the residence permit for investment;
- **Minimum periods of stay in the country which are 7 days in the first year, and 14 days in the subsequent 2 years;**
- The initial residence permit is valid for 1 year, and renewable subsequently for periods of 2 years, by fulfilling the necessary legal requirements above mentioned.



Concession of a Residence Permit for Investment through the acquisition of real estate property

a) Acquisition of property in an amount equal to or greater than 500 000 €

In order to be granted a residence permit through the acquisition of property in the amount equal to or greater than 500 000 € (five hundred thousand euros), the following documents must be submitted:

- Deed of Purchase and Sale or Promissory Purchase and Sale Agreement, which includes the declaration of a financial institution or bank in Portugal attesting the international and effective transfer of capital for payment of the total price or down payment of a promissory agreement in the amount equal to or greater than 500 000 € (five hundred thousand euros);



- Updated certificate of the registration of the land register, issued with a maximum of 45 days, with all registrations and inscriptions in force, attesting the ownership of the property, free of any liens or charges;
- Certificate of the land registry of the provisional registration of purchase, which is valid, based on the promissory purchase and sale agreement, whenever legally feasible, with a down payment equal to or greater than **500 000 €**;
- Tax property document;
- Certificate of commercial registration, issued with a maximum of 45 days, **if the investment is made through a sole shareholder company, which proves to be the applicant.**

The investment in the acquisition of the property of an amount equal to or greater than 500 000 € (five hundred thousand euros) can be made as follows:

- Acquisition of property on a joint ownership basis, provided that each co-owner invests the amount equal to or greater than 500 000 € (five hundred thousand euros);
- Through a Promissory Purchase and Sale Agreement, with payment of a down payment equal to or greater than 500 000 € (five hundred thousand euros), in which case the actual purchase should be effected before the first renewal of the residence permit application is submitted.
- It should be noted that the law refers to the acquisition of properties (in the plural) with an amount equal to or greater than 500 000 € (five hundred thousand euros), which means that the investor may, for example, purchase two properties in the amount of 250 000 € (two hundred and fifty thousand euros) each;
- The investment through the acquisition of properties also includes the possibility of charging them from a value higher than 500 000 € (five hundred thousand euros);



- The property purchased may be leased or given to commercial, agricultural or touristic exploitation.

b) Acquisition of property, which construction has been completed for at least 30 years or located in urban rehabilitation area, with development of rehabilitation works of property in the amount equal or greater than 350 000 € (three hundred and fifty thousand euros):

In order to be granted a residence permit for investment through the acquisition of property, which construction has been completed for at least 30 years, or located in an urban rehabilitation area, with development of rehabilitation works of the property in the amount equal to or greater than 350 000 € or more € (three hundred and fifty thousand euros), it is necessary to submit the following documents:

- Deed of Purchase and Sale of the property;
- Declaration of a financial institution or bank in Portugal attesting the international and effective transfer of capital to the bank account in Portugal held by the applicant, free of liens or charges;

- Updated certificate of the registration of the land register, issued with a maximum of 45 days, with all registrations and inscriptions in force, attesting the ownership of the property, free of any liens or charges;
- Tax property document;
- Certificate of commercial registration, issued with a maximum of 45 days, if the investment is made through a sole shareholder company, which proves to be the applicant.

For the acquisition of property located in urban rehabilitation area, the following documents must be submitted:

- Proof of submission of prior information request to the Town Hall, or
- Proof of prior communication to the Town Hall, or
- Proof of the application for a licensing permit and a statement issued by the managing entity of the urban rehabilitation responsible for carrying out the urban rehabilitation works.

For the acquisition of properties which are older than 30 years, the following documents must be submitted:

- Proof of submission of prior information request to the Town Hall, or
- Proof of prior communication to the Town Hall, or
- Proof of licensing permit application.



It should be noted that, when the property is purchased, if the respective works contract has not yet been concluded, the difference between the purchase price of the property and the minimum amount of the investment required must be deposited in a bank account in Portugal, in a deposit accounts, free of liens or charges and charges, held by the applicant, with a statement issued by the bank that attests the deposit made.

If, at the time of the purchase of the property, a contract for the rehabilitation works has already been concluded with a company duly authorized by the Construction and Real Estate Public Institute, a copy of the rehabilitation works contract, the receipt of discharge of the price or, If it is not possible to present this receipt for a reason that is not attributable to the applicant, the submission of a bank statement that attests the deposit made in an amount equal to or greater than the price, in a bank account in Portugal, to a deposit account, free of liens and charges.



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Tax Implications

When buying a property in Portugal the investor needs to pay the following taxes that refer to the purchase of properties:

- **Municipal Property Transfer Tax (IMT)** – This is a property purchase tax that must be paid before the Final Purchase and Sale Deed. As the payment takes place, a document is issued by the Local Tax Office, which proves its payment. The tax to pay depends on the price of the property or, if higher, on the ratable value that is registered on the Property Tax document;
- **Urban Buildings for own and permanent habitation purposes** – A progressive marginal rate of up to 8% for buildings up to € 574,323. For properties with a value greater than € 574 323 (five hundred and seventy-four thousand, three hundred and twenty-three euros) the rate is unique and 6%;



- **Urban Buildings for habitation purposes, other than for own and permanent habitation** - A progressive marginal rate of up to 8% for buildings up to € 550,836 applies.

For real estate worth more than € 550 836 (five hundred and fifty thousand, eight hundred and thirty-six euros) the rate is unique and 6%;

- **Urban buildings for commercial purposes or land for construction** – 6,5%
- **Rustic building** (without building license permit) – 5%.
- **Stamp duty ("IS")** – At the time of signature of the purchase and sale deed or definitive contract of purchase and sale, the buyer must pay stamp duty, which amount varies according to the act or contract. For the acquisition of real estate property, the tax is paid at the rate of 0.8%.
- **Municipal Property Tax ("IMI")** – Tax due by the owner of the property on 31 December of the year in respect of the tax. The IMI is levied on the property tax value of the property, at a rate ranging from 0,3% to 0,45% (fixed annually by the Municipality) and 0.8% for rural buildings;

The investor who opts for the investment through the purchase of real estate properties, which construction has been completed for at least 30 years or located in urban rehabilitation areas, with rehabilitation works of the properties in the amount equal to or greater than 350 000 € (Three hundred and fifty thousand euros), may benefit from the exemption of the payment of the Municipal Tax on Real Estate Transfers ("IMT") in the acquisition of the property, provided that the works start within three (3) years from the date of the purchase, as well as exemption from the payment of the Municipal Property Tax ("IMI"), for a period of three (3) years after the issuance of the respective municipal license.

- **Notary fees and registration** – Notary fees and registration fees are borne by the buyer at the time the purchase and sale deed or definitive purchase and sale contract are signed. The total amount of these charges is approximately 900 € (nine hundred euros).

The property income generated by the property in Portugal will be taxed in Portugal at the rate of 28%, with the possible deductions of maintenance and conservation

costs of the property and also the municipal property tax payable in Portugal.

The income derived from a possible sales of the property in Portugal will be taxed as a capital gain in Portugal at the rate of 28%.





Renewal of the Residence Permit for Investment Activities

The residence permit is valid for a period of 1 (one) year, from the date of issue, and may be renewed subsequently for periods of 2 (two) years, provided that the initial conditions of granting are maintained.

For the renewal of the residence permit, applicants must prove that they have stayed in Portugal for at least 7 (seven) days in the first year and 14 (fourteen) days in each subsequent period of 2 (two) years.



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Family Reunification

Holders of a Residence Permit for Investment may apply for Family Reunification, applicable to the spouse and ascendants, and to children who are minors, dependent on the Applicant, including adult children whose age is above the age of 18 years, who are dependant of the couple or one of the spouses, and who are studying in Portugal or abroad.

When the Family Reunification application is granted, the Residence Permit is granted to the family members, for the same duration as the applicant's residence permit.



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Legal services provided - Proposal BR – Acquisition of real estate in Portugal

Real estate law covers more than just the drafting of contracts for the purchase and sale of real estate property!

Our law firm provides legal services in Real Estate, which cover several operations such as the purchase and sale of property, distressed debt acquisition, commercial leasing, property management, licensing of various real estate projects in tourism, commercial, industrial and retail, structuring and joint ventures, loans arrangements, real estate investment fund formation, planning, construction and urban rehabilitation.

Our law firm performs the necessary “**due diligence**” in the purchase process, regarding not only in the (i) first step of the process, assisting in the negotiations with the seller, drafting of the competent contracts and assisting in the final deed, (ii) but also after the acquisition of the property, advising in the management and maintenance of the assets, if requested by the client.



(i) The legal services we provide to foreign investors, includes:

- Assisting in all the negotiating process until signing the first commitment agreement, the promissory sale and purchase agreement;
- Analysis of all documentation pertaining to the property, and accessing of all relevant entries in the Land Registry, in the Tax Office, and at the local municipal council;
- Obtaining a Portuguese Fiscal Number (número de contribuinte), at the local tax office (Serviço de Finanças);
- Representation for tax purposes in Portugal;
- Receipt and holding of funds in the law firm clients/ escrow account (if required);
- Opening a bank account—through our office we choose the appropriate bank that will facilitate the whole process of the bank account opening;
- Drafting of Power-of-Attorneys;
- Drafting of the promissory purchase and sale agreement;



- Drafting of the final purchase and sale deed;
- Registration of acquisition of the property title deed at the Land Registry Office and at the local Tax Office;
- Acting on behalf of the owner, with the various utility companies – electricity, gas, water, telephone, cable, etc;
- Preparation and submission of the initial for the golden residence permit, and follow-up of the process, near the Portuguese Immigration and Borders Authorities (“SEF”);
- Full assistance with renewals of the golden residence permit;
- Applications for Permanent Residence Permits and Portuguese Nationality/Citizenship;
- Acting as depositary of all the documents regarding the property own by the client;
- Constant legal support directly to the client, by email, telephone or personally.

COSTS RELATED TO THE RESIDENCE PERMIT ("GOLDEN VISA") EXCLUDING LEGAL FEES

| PUBLIC COSTS OF THE SERVIÇO DE ESTRANGEIROS E FRONTEIRAS (SEF) | | QUOTATION (EUR) |
|--|--|-----------------|
| Analysis of the application for concession or renewal | 520,40 € | |
| Analysis of the Family Reunification | 81,10 € (Per person) | |
| Issuance of the Residence Permit Card for the investor or family members | 5 202,60 € (Per person; In case of children under the age of 18 born in Portugal – 50% discount) | |
| Renewal of the Residence Permit Card for the investor or family members | 2 601,30 € (Per person) | |
| PUBLIC COSTS WITH THE ACQUISITION OF PROPERTY | | QUOTATION (EUR) |
| Municipal Transfer Tax ("IMT") | 6,5% (commercial real estate, plots of land for construction) App. 6% (residential real estate) 5% (rural properties) | |
| Stamp Duty | 0,8% | |
| Annual Municipal Tax ("IMI") | Rate between 0,3% e 0,5% (urban properties) 0,8% (Rural properties) Charged over the official valuation of the property for tax purposes. Paid in 3 yearly instalments in April, July and November; | |
| Notary fees (notary acts practiced by Lawyer - Public Deed of Purchase and Sale) | 600 € + IVA | |
| Registration of the acquisition of the property in the Registry of Land Registry | 350 € | |



OTHER COSTS

| | |
|---|---|
| Opening of the Bank Account in Portugal | 350 € |
| Issuance of Bank Statement (issued by the Bank) | 25 € |
| Health Insurance in Portugal | Variable according to personal information of the beneficiary |



Contacts

PORTUGAL



Estêvão Augusto Bernardino

Partner

E-mail: eab@bernardinoresende.com

Telf + 351 213 174 742

Fax + 351 213 174 743



Charif Haissam Aoude

Lawyer

E-mail: cha@bernardinoresende.com

Telf + 351 213 174 742

Fax + 351 213 174 743

All legal acts performed regarding the process for application for concession of residence permits, are exclusive acts that must be performed exclusively by Lawyers or Law Firms. The practice of such legal acts by any other entities is prohibited and constitutes a crime punishable by the law in force. Our Law Firm is covered by Confidentiality regarding all operations of our Clients, thus benefiting the Client of the status of Confidentiality which protects the Client and his identity.



BERNARDINO, RESENDE E ASSOCIADOS
SOCIEDADE DE ADVOGADOS RL | LAW FIRM

PORTUGAL

Rua Carlos Testa, nº 1, 6º C
1050-046 LISBOA • PORTUGAL

T.: + 351 21 317 47 42

Fax: + 351 21 317 47 43

info@bernardinoresende.com

<http://www.bernardinoresende.com>

BR ALLIANCE

ALEMANHA | ANGOLA | BRASIL | CHINA | EAU | ESPANHA | GHANA | HOLANDA | LUXEMBURGO | MALTA | NIGÉRIA | QATAR | REINO UNIDO | RÚSSIA | SUÉCIA | UCRÂNIA | VIETNAME