

# BRief Legal News

## IMMIGRATION AND FOREIGN CITIZENS LAW

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### Promulgation of the “Mais Habitação” Law and changes to the legal regime of the Residence Permit for Investment (“Golden Visa”):

Despite the presidential veto of the “**Mais Habitação**” Law, the legal diploma was reapproved by the Portuguese Parliament on 22 of September 2023, having been promulgated by the President of Portugal on 30 of September 2023,

The new diploma approved, among several other measures aimed to protect the access to habitation, establishes amendments with the purpose of restructuring the current Residence Permit for Investment (“Golden Visa”) legal regime.

The law maintains certain types of investment that are already existent, with some adjustments, and eliminates other types of investment, particularly related with real estate investment that are revoked and no longer eligible.

We can anticipate that the new “Mais Habitação” Law is estimated to enter into effect between the 6<sup>th</sup> and 11<sup>th</sup> of October 2023, on the following day after it’s publication in the official journal “Diário da República”

### A. TYPES OF INVESTMENT THAT ARE MAINTAINED AND WILL BE ELIGIBLE UNDER THE NEW GOLDEN VISA PROGRAMME:

The following types of investment will continue to be eligible under the Golden Visa programme:

- i) The creation of, at least 10 job positions;
- ii) Capital transfer in the amount of **500 000 € (five hundred thousand euros)** for the acquisition of participation units (shares) or parts of non-real estate collective entities, established under Portuguese law, which maturity, at the moment of the investment, is, at least, of five years and, at least, 60% of the investments are fulfilled in commercial companies with head office in Portugal;
- iii) Capital transfer of the amount equal or higher than € **500 000 (five hundred thousand euros)** for incorporation of a commercial company with head office in Portugal, combined with the creation of five permanent working jobs, or for the reinforcement of the share capital of an already incorporated commercial



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company with head office in Portugal, with the creation of five permanent working jobs, or maintenance of at least ten jobs posts, being at least five permanent, and for a minimum period of three years;

- iv) Capital transfer in the amount equal to or higher than € **500 000 (five hundred thousand euros)** for investing in research activities conducted by public or private scientific research institutions involved in the national scientific or technologic system.
  
- v) Capital transfer in the amount equal or higher than €**250 000 (two hundred and fifty thousand euros)** for investing in artistic output or supporting the arts, for recovery or maintenance of the national heritage.

The amount of the investments mentioned in **i), iv) and v)** can be legally reduced in 20 %, if the investment takes place in low density population territories.

**It is also important to mention that, according to the new rules:**

**Any of the investment types mentioned above, cannot be related, directly or indirectly to real estate investment, which will no longer be**

**eligible under the Golden Visa, after the Law “Mais Habitação” enters into effect.**

**On the other hand,**

#### **B. TYPES OF INVESTMENT THAT WILL NO LONGER BE ELIGIBLE UNDER THE NEW GOLDEN VISA PROGRAMME:**

The following types of investment are revoked and will no longer be eligible, under the Golden Visa programme, after the new law enters into legal effect:

- a) Transfer of capital in the minimum equal or higher than **1.500.000, 00 €**;
  
- b) Purchase of real estate property in the amount equal or higher than **500 000 € (or 400 000 €, if the property is located in a low density population territory)**;
  
- c) Purchase of real estate property, with construction is completed for at least 30 years, or located in urban rehabilitation area, and, additionally, carrying out rehabilitation works, in the minimum amount of **350 000 € (or 280 000 €, if the property is located in a low density population territory)**;

**These types of investment will no longer be eligible for the Golden Visa, after the Law “Mais Habitação” enters into effect.**



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**Nevertheless,**

- New applications based on such investments, before the new law takes effect will continue to be accepted;
- Renewal rights of the residence permit for investment will be fully assured;
- The analysis of applications submitted until the new law takes effect, will follow the current rules and regulations;
- Family reunification applications are still accepted and can still be legally submitted, even after the new law takes effect.
- The changes do not affect the rights to obtaining permanent residence and/or citizenship after five years of Residence.
- The new regime maintains the minimum period of stay in the country, of 7 days, consecutive or not, during the first year, and of 14 days, consecutive or not, in the subsequent periods of two years;

**IN CONCLUSION :**

Despite the initial intention of the Portuguese government in fully terminating the Golden Visa programme, the approved new law is far more positive,

By restructuring the current existent Golden Visa regime, maintaining the eligibility of investments related with job creation and supporting activities related with investigation research in scientific and technological activities and supporting the creation of art, maintenance and recovery of the national cultural heritage.

The new “Mais Habitação” Law also establishes that, investment activities that continue to be eligible will be evaluated every two years, regarding their impacts on scientific and cultural activity, and on the promotion of foreign direct investment and job creation.



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