

BRAZIL • EUROPE MIGRATION

The situation of Brazilian immigrants in Spain and Portugal, and Portuguese and Spanish immigrants in Brazil: Legal aspects and experiences

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FOREWORD

The National Immigration Council (Conselho Nacional de Imigração – CNIg), of the Ministry of Labour and Employment of Brazil and the International Centre for Migration Policy Development (ICMPD) are very pleased to present the research report '**BRAZIL-EUROPE MIGRATION. The situation of Brazilian immigrants in Spain and Portugal, and Spanish and Portuguese immigrants in Brazil: Legal aspects and experiences**'.

This work is the result of a close partnership between the CNIg and ICMPD in the framework of the project "*Itineris: Protecting migrants' rights from exploitation from Brazil to EU Member States,*" with the purpose of sharing experiences and lessons learned in the field of migration governance. The activities included in the project have been planned and implemented with a high level of collaboration, so that public policies can represent the actions necessary to respect and guarantee the rights of migrants regardless of nationality, gender, age and migration status.

The Itineris Project dedicated the first of its three components to the protection of migrants' rights. The core of this was studies conducted with different audiences, including migrants, non-migrants and strategic institutional players acting in the migration field, consolidated in the present report.

The present report, elaborated within the course of project implementation, consolidates the perception on the lack of information and the vulnerabilities of Brazilian immigrants in Spain and Portugal; a comparative legal analysis among migrants' rights in Portugal, Spain and Brazil; and, an empirical study conducted with Brazilian citizens in Spain and Portugal, as well as with Spanish and Portuguese citizens in Brazil.

The Itineris Project gathered a substantial volume of data on the needs and difficulties of migrants, including potential emigrants, families and children of emigrants, returned Brazilian citizens and Spanish and Portuguese immigrants. In addition, it collected information regarding access to their rights, regarding access to their rights, both in Brazil and in the country of destination.

The Itineris Project is the result of a proposal contemplated by the European Union's Call for Proposals for migration and asylum, aiming at the implementation of strategic actions with the following purposes: (a) promoting the link between migration and development; (b) improving the efficient management of labour migration; (c) fighting illegal immigration and facilitating the readmission of irregular immigrants; (d) protecting migrants against exploitation and expulsion and supporting the fight against human trafficking; and (e) promoting asylum and international protection of stateless persons.



In this sense, it is important to thank, primarily, the generous financial support of the European Union and other co-funding partners, including the CNIg itself; of the Ministry of Labour and Employment of Brazil; the National Secretariat of Justice (*Secretaria Nacional de Justiça* – SNJ), of the Ministry of Justice of Brazil; the General Secretariat for Equality of Galicia (*Secretaria Geral para Igualdade da Galícia* – SXI), Spain; the Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género* – CIG) from Portugal; and the Federal Office for Migration (FOM) in Switzerland, without all of whom this initiative would not have been possible.

In addition, it is important to recognize the high-quality work performed by the authors of the texts included in this publication, as follows: Prof. Dr. Cláudia Finotelli, from the Complutense University of Madrid (Spain); Prof. Dr. Diego Acosta, from the University of Bristol (UK); Prof. Dr. Duval Fernandes, from the Pontifícia Universidade Católica de Minas Gerais (Brazil); Prof. Dr. João Peixoto, from the Universidade Técnica de Lisboa (Portugal); PhD student Luisa Belchior, “Migraciones Internacionales e Integración Social” Programme of the Instituto Ortega y Gasset (Spain); Prof. Dr. Maria da Consolação Gomes de Castro, from the Pontifícia Universidade Católica de Minas Gerais (Brazil); PhD student Silvana Pena Knup, Graduate Studies in Geography at the Pontifícia Universidade Católica de Minas Gerais (Brazil); and Dr. Thais França da Silva – CIES/ISCTE – IUL (Portugal).

Lastly, we must acknowledge the rich contributions of the people interviewed – migrants and non-migrants – public authorities and civil society organizations, who, by sharing their stories and perspectives, allowed the development of a more precise diagnosis of the migration universe and the current gaps and needs regarding knowledge and access to rights.

All partners of the Itineris project hope that the information presented in this publication will guide the work of public policymakers in Brazil, aiming for the development of measures to ensure full access to human rights within migration processes.



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1. INTRODUCTION

The purpose of this publication is to present the results of three field studies where the goal was to explore the profile of Brazilian citizens who migrate to Spain and Portugal, as well as the nationals of those countries who immigrated to Brazil in recent years. This document also comprises a comparative analysis of the migration legislation in Brazil, Spain and Portugal.

In order to introduce this set of studies, the approach chosen was to separately describe the situation of these migrant, Brazilians in Europe – Spain and Portugal – and Europeans – Portuguese and Spanish citizens – in Brazil, to allow for an independent and broad overview of each group.

1.1 Brazilian migrants moving to Europe¹

Since the 1980s, Brazil began a new phase in the displacement of its population, a period when an increasing number of Brazilians decided to live abroad, which became a popular topic in the media and among researchers in the field. Thus, from a country historically known for receiving immigrants, Brazil became a population “ejector” (Carvalho; Campos: 2006). The main destinations of the Brazilian emigrant are, predominantly, developed countries like Japan, the United States and some countries in Europe, such as Italy, France (formerly), Portugal, Spain and the United Kingdom. In the most recent years, Belgium and Ireland have followed. According to the Ministry of Foreign Relations (MRE), the departure of Brazilians reached its peak in 2008 when approximately 4.5 million Brazilians lived abroad. However, this number has suffered an impressive decline: the latest estimates available for 2012 point out that this number was reduced to 2.7 million, which, even if declining, is still a significant figure.

In the last three decades, new international immigration categories could be observed in Brazil, which became a receiver of Koreans, Chinese, Bolivians, Paraguayans, Chileans, Peruvians and Africans, in addition to refugees from other countries (Aydos: 2010). Today, a movement of return from Brazilians residing abroad can also be observed.

In 2010, the demographic census indicated the presence of 592,569 foreigners living in Brazil, besides 4,477 foreigners with refugee status coming from 77 countries.² More important than accounting for these flows is understanding their specificities.

However, great generalizations about the profile of emigrating Brazilians, even the ones who later return, are not completely possible. Each place of origin, each destination and each period of the short history of Brazilian migration may reflect different socioeconomic and demographic profiles.

Several publications that develop the profiles of Brazilians who emigrate from and to specific locations already exist. Some results from researches that have investigated the profile of

¹ This part of the text has benefitted from the work of Patarra, Neide; Fernandes, Duval (2011).

² Data from the Ministry of Justice.



Brazilians emigrating to Europe are presented here. Our goal is to provide an overview of the current Brazilian migration context, where the parameters already published are used in the analysis of the field research results to be discussed next.

According to the Ministry of Foreign Affairs (MRE: 2011), the main destinations of Brazilians in Europe are the United Kingdom, Spain, Portugal, Germany, Italy, France and Belgium. This order respects the best estimate of the MRE, based on a combination of official assessments, evaluations by non-governmental organizations and research conducted by the media.

The 2010 Demographic Census also investigated the theme of emigration and indicated as the main destinations in Europe, among others, the following countries: Portugal, Spain and England.

Unlike Brazilians who immigrate into the United States, the Brazilian citizen who migrates to Europe enters the continent without the need for a visa, or with a tourist visa issued at entry by one of the countries, especially Portugal and Spain. The non-requirement of a visa prior to arrival cheapens the migration process, which involves a series of expenses besides travel tickets, and therefore makes it more accessible to a migrant of any socioeconomic profile. In the case of Portugal, the migration process is further facilitated by the absence of a language barrier, the presence of cultural similarities and, consequently, and increased chances of integration for the migrant leaving Brazil for the first time and speaking no other language. These two destinations are the focus of this study, but different views of the profiles of migrants to other European countries are also contemplated.

In building a profile of Brazilian migrants in Europe, a great challenge encountered was the lack of statistics about those who stay with irregular status and, according to the estimates of the MRE presented by Marinucci (2008), these constitute the majority of those who migrate to almost all the main destinations. Brazilian emigration to Europe is an old phenomenon, but its intensification is more recent than the emigration to the United States and occurred particularly after the attacks of September 11, 2001, which resulted in the imposition of immigration restrictions by the US government. Another factor that influenced the attraction of immigrants was the growing demand for less qualified labour, resulting from European investment in civil construction at the beginning of the new millennium. Consequently, only after the beginning of the present century did the number of Brazilians in Europe reach such a significant level as to result in an increased interest of European and Brazilian scientific communities to analyze their profile and the reality of integration (Góis et al.: 2009).

In an article based on research conducted in 2009 with 1,400 Brazilian immigrants in Portugal, Góis et al. (2009) state that, from the 1970s to 2008, the number of Brazilian citizens in Portugal increased from 3,000 to 107,000. The period 2007 to 2008 saw the fastest growth, with the number of Brazilians increasing from 15.8% to 24.3% of all foreigners living in Portugal. In this same article, they shed some light on the profile of Brazilian immigrants in that country.

The predominant age group among Brazilian immigrants in Portugal, for example, is between 20 and 39 years (75.0%), according to the study, with an average age of 32.4 years; this is the case for both genders. The authors nonetheless point to a progressive feminization of the migration to this particular destination between 2003 and 2009, with women representing 59.0% of the total number of Brazilian immigrants to Portugal. It is important to note that, within this age group, women are at their reproductive age³, which indicates the need for special policies for migrant women, children and adolescents who are children of immigrants in order to protect their rights.

³ The female reproductive period is considered to be between 15 and 49 years of age (DEMOPAEDIA/UN).



The same study finds that the majority of Brazilians living in Portugal indicate economic (34.0%) and professional (19.0%) reasons for migrating. The educational level of these immigrants is predominantly secondary school (51.0%), with 16.0% having only attended elementary school.

This profile is similar to those presented by Bógus and Bassanezi (1995) in an article on the migration of Brazilians to Italy, in which they indicate that the profile of Brazilians who migrate to Italy is similar to that of Brazilians who migrate to Portugal. In Italy, in 1995, the predominant age group was between 20 and 44 years (71.5%) and the average age was 31 years. The flow was also predominantly of females; women represented 70.0% of Brazilian citizens in Italy. In contrast with the results found in Portugal, those in Italy found a higher proportion of Brazilians having stated that they migrated for family reasons (25.3%) rather than for professional reasons (15.7%).

According to Fernandes and Rigotti (2008), the advantages offered by Italian legislation, which grants dual nationality to descendants of Italian immigrants who migrated to Brazil in the past, are also factors that have to be taken into account. In no other European country does this right extend to past generations as remote as the great-grandchildren of immigrants. According to the Italian Embassy in Brazil, more than 215,000 Italian nationality titles were granted to Brazilians, and another 500,000 requests await the approval of the Italian government (BBC: 2008).

The survey conducted by Solé, Cavalcanti and Parella (2011) of Brazilian immigrants in Spain also finds a number of similarities with the previously mentioned studies. It is estimated that 66.4% are irregular immigrants, 70.0% are women, 65.9% are between the ages of 20 and 39, and 50.2% have completed secondary school. These authors also point out that, among Latin-American women, Brazilian women are those with the highest level of access to Spanish citizenship through marriage to Spanish citizens. When discussing the reasons that motivate Brazilians to go to Spain, the authors state that, in the most recent period of this flow, the majority of immigrants admit that they migrate to improve their financial situation, or because of a lack of professional opportunities in their place of origin.

Qualitative studies on Brazilian immigrants in Spain and Portugal, which are part of this publication, indicated a strong prevalence of economic issues as a factor that contributed to the launch of the migration project, showing little difference in this aspect between those who opted for Spain or Portugal.

However, despite the fact that Brazilian immigrants who choose to stay in these European countries irregularly have to face the vulnerabilities that this condition implies, they are still willing to participate in any migration movement with the expectation of improving their lives and that of their families. These conditions of vulnerability may be economic or social, and their repercussions may be material or emotional, or often both. Some of these conditions are: unemployment, sub-employment, poverty, loss or difficulties in the family and social relations, such as divorce, death of a loved one, lack of perspective for a satisfactory love life in the living environment, gender discrimination, homophobia, etc.

However, publications dedicated to the topic point out that Brazilians are willing to consider irregular immigration because they live in an environment where migration is already part of the local culture, where many successful migration stories are shared or experienced closely, making it an attractive option. Therefore, they make decisions based on information from social networks comprising family members and friends who have already migrated, and are stimulated by the support promised by the ones who are still there. It is a decision based on trust in family ties and friendships (ICMPD: 2011; Cavalcanti et al.: 2011).



Generally, there are strong indications that these immigrants calculate their economic earnings (family or individual) in a developed country with a strong currency in such a way that, upon return to Brazil, it can be used to improve their socioeconomic situation and elevate their status in the family or society (ICMPD, 2011). They emigrate knowing that they will initially be irregular immigrants, hoping to become regular, and are aware of the risks of not being barred from entering or being deported. However, they leave Brazil uninformed about the country of destination and the consequences they have to face for surviving and working in an irregular situation (ICMPD, 2011).

They leave Brazil with plans for their return home and for the investment they will make during their stay abroad or after their return, but they maintain family and community ties through correspondence, telephone, internet and periodic remittances for investment purposes, besides paying for education, health and other survival needs of Brazilian family members in Brazil (Góis et al.: 2009).

Frequently, Brazilian immigrants try to bring their families and friends to their destination country after becoming integrated there, and this causes a migration flow with strong participation of close family members, which may be irregular, repeating the experience of close relatives, or regular, whenever possible.

They tend to seek an occupation immediately upon arrival in the country of destination, and many easily find jobs usually offered to foreigners, in positions requiring fewer qualifications and, therefore, offering lower wages when compared to the positions occupied by native citizens in the same country. The most common sectors are hospitality, commerce, domestic services and civil construction (Piore: 1979; Benito et al.: 2009; Góis et al.: 2009).

When taking low wage jobs and trying to save for their return to Brazil, these immigrants take on many hours of work and accept poor conditions, initially, in terms of quality of housing, life, and their access to culture and leisure (Fernandes; Pinto: 2009).

In most cases, with no previous knowledge of their rights in the country of destination, immigrants depend entirely on information from, and the solidarity of, their social network. However, they often become disappointed with the existing gaps in these networks, and many fall victims of labour and/or sexual exploitation.

1.2 Portuguese and Spanish migrants moving to Brazil

The migration of Portuguese and Spanish citizens dates back to the discovery of Brazil.

While immediately after the discovery immigration was a response to the political and economic interests of the Portuguese Crown, the immigrants who landed in Brazil in the 19th century were part of a migration wave responding to the growing demand for labour in the agricultural sector. This contingent which comprised mostly of Europeans, and particularly Italians, eventually gathered other nationalities. From the beginning of the 19th century to the end of the third decade of the 20th century, more than 4 million foreigners moved to Brazil.

During the period from the early 19th century to mid-20th century, Portuguese citizens represented the largest proportion of immigrants who arrived in Brazil, with the Spanish being the third-largest contingent.

According to the 2010 Demographic Census, among those who declared being foreigners or naturalized citizens, Portuguese nationals represented 23.3% of the total while Spanish



citizens represented 5.2%. This suggests that this immigrant population, unlike other groups of immigrants (Patarra; Fernandes: 2011), is strongly influenced by the older population. We infer this because more than 50% of the representatives from both groups declared that they arrived in Brazil between 1950 and 1960. However, in the case of Spanish citizens, 12.5% of them arrived in the five years prior to the 2010 Census, and 42.5% of those were between 20 and 34 years old.

From the data made available by the National Coordination of Immigration (*Coordenação Nacional de Imigração*) of the Ministry of Labour and Employment, it is possible to observe that, among the applicants for work permits in Brazil, the Spanish and Portuguese had the most significant growth in numbers between 2011 and 2012. Another important point is the interest shown by nationals of these two countries in investing in Brazil. Upon review of permanent visas and requests presented by individual investors, we can conclude that Spanish immigrants occupy the second rank in the total volume of resources invested, and the Portuguese the third rank. In 2011, Spanish nationals invested R\$31.1 million as individual investors, amounting to 15.0% of all resources invested in Brazil by immigrants, while the Portuguese invested R\$29.4 million, which corresponds to 14.0% of the total.

In summary, there are indications that our subject encompasses two very different generations: one consisting of those who moved more than 50 years ago, and another comprised of those who arrived more recently, in particular after the beginning of the global economic crisis of 2008. In the group that arrived shortly before the 2010 Census, there is a strong prevalence of young people, with higher levels of formal education.

1.3 Structure of the publication

This publication incorporates the findings of several articles that were developed within the scope of the ITINERIS Project, comprising assessments that focused on the access to basic rights of Brazilian immigrants residing in Portugal and Spain, and of Spanish and Portuguese citizens living in Brazil.

In addition to these topics, a comparative study on migration legislation in Brazil, Spain and Portugal is also included.

The present report comprises eight chapters, the first being this introduction. The second chapter presents a synthesis of surveys focused on Brazilian immigrants living in Europe, specifically in Spain and Portugal, and on Spanish and Portuguese citizens who have migrated to Brazil. This chapter allows the reader to access the main conclusions of the three studies presented in the fifth, sixth and seventh chapters.

The return movement of Brazilians who had migrated to Europe was the subject of a separate study, also prepared within the scope of the ITINERIS Project. It has already been presented in another publication, but is summarized here in the third chapter, given its relevance to the studies conducted of Brazilians in Portugal and Spain.

The legislation relating to the rights of immigrants from Brazil, Spain and Portugal is discussed comparatively in the fourth chapter, which explores the issue in the light of European law and of Brazilian legislation, incorporating the alterations of legal instruments up to the year 2012.

The fifth chapter presents a study conducted with Brazilians residing in Portugal at the end of 2012. Chapter six deals with the research on Brazilians living in Spain, an assessment also conducted in late 2012.



The seventh chapter discusses the study conducted in Brazil with Portuguese and Spanish citizens who arrived after the crisis of 2008, including those with both regular and irregular immigration status.

Concluding the report, some final considerations are presented in chapter eight, in addition to a synthesis of the three studies detailed in chapters five, six and seven. The conclusion also includes recommendations that may contribute to the development of public policies to broaden the access of immigrants to their rights.



2. SUMMARIZED ANALYSIS OF THE RESEARCH REPORTS ON THE RIGHTS OF BRAZILIAN MIGRANTS

Duval Magalhães Fernandes⁴
Maria da Consolação Gomes de Castro⁵
Silvana Pena Knup⁶

In this chapter, we present a synthesis of the results of three surveys,⁷ prepared with Brazilian immigrants in Spain and Portugal and with Spanish and Portuguese citizens in Brazil. The purpose of this brief summary is to allow the reader a comparative overview of the three studies and identify the most relevant information from the surveys undertaken.

2.1 The entry process

In the report of the first study, conducted in Brazil with Brazilian immigrants who returned from Portugal and Spain, as well as in the reports of the studies conducted with immigrants who remained in those countries, some common characteristics were seen in the behaviour of Brazilians who have migrated:

- In general, the immigrants do not seek official information about the destination countries and their rights. They make their decisions, in particular regarding the planning of the migration process, based on informal knowledge about the place of destination obtained from their social networks.
- Often, they enter the country of destination as tourists and remain there for a period longer than the time allowed, staying with irregular status until enabled to regularize their situation.
- Although some immigrants use other countries as a port of entry before aiming for residency in Spain or Portugal, assessments pointed out that most Brazilians enter both countries coming directly from Brazil, and remain there until they return to their country of origin. The studies indicate that Spain and Portugal are the final destination.

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⁷ The three surveys are: Migration Brazil-Europe: The situation of Brazilian migrants who returned from Europe at the beginning of the 19th century; Access of Brazilian immigrants to rights in Portugal; Access of Brazilian immigrants to social and political rights in Spain.



In the report of the research conducted in Spain and in some interviews conducted with returnees from Spain in Brazil, difficulties in entering Spain were mentioned, as was the disrespectful and discriminatory treatment of Brazilian immigrants in Spain. It is clear that, in a few cases, the immigrants enter Spain from other countries, especially France. The report of the research in Spain discusses the history of these recent difficulties, explaining its root causes and the development of dialogue between both countries towards a resolution.

2.2 The regularization process

In both studies, with Brazilians who returned from Spain as well as with Brazilians who remained there, it is clear that the regularization process through employment is more bureaucratic in Spain than it is in Portugal, and is less frequently attempted as a result. Consequently, there are reports of women who chose to marry a Spanish citizen as a means to regularizing their migration status. Another alternative observed in the regularization processes is the use of study programmes.

In the case of Portugal, factors such as the language advantage, which contributes to an easier professional integration, and the simpler requirements for the regularization process, make the country a preferred destination for Brazilian immigrants in Europe.

2.3 Employment

Regarding their professional trajectory both in Spain and Portugal, Brazilian immigrants tend to arrive with no employment and search for the first opportunities with the support of their social network. They assume trajectories of little social mobility, remaining attached to relatively unattractive labour sectors, in positions that do not fully utilize the skills and work experience acquired in Brazil.

The types of professions performed by those Brazilians interviewed, both in Spain and Portugal, are largely high- or medium-skilled jobs, particularly in the civil construction and service sectors.

The research report from the survey conducted in Spain highlights that the barriers to work mobility are more significant for women, as they tend to remain in activities within the cleaning or domestic service sectors even after regularization through employment or marriage.

In most cases, the professional path of immigrants either in Spain or Portugal begins with informal entry into the labour market and is then followed by the offer of an employment contract. The weakness of the employment bond is indicated in the fact that the contracts are most often temporary and do not reflect the reality of the specific job performed, which limits the workers' access to their rights.

In Spain, some interviewees revealed that, even after legalization, they opted for autonomous work with no contracts due to the costs of social security. Most of them judged that they do not make enough money to comply with the level of requirements and responsibility of formal positions.

Some Brazilian women interviewed in Spain reported incidents of anti-Brazilian discrimination at the workplace. We also gathered a few assessments among Brazilian immigrants, both in Spain and Portugal, of cases where they perceived discrimination along the lines of gender, nationality, legal status and qualification.



In Portugal, the high level of precariousness in the labour market has contributed to an intermittent path of formal and informal relations. This situation sometimes influences the renewal of residence permits, as well as the opportunity to become regular.

As for revenues and savings, the interviewees demonstrated satisfaction with the incomes earned. This satisfaction is correlated with their professional trajectory. They also revealed that the European economic crisis degraded the level of income in Spain and Portugal. In general, they reported that the promise of savings is limited, either to the form of remittances or general savings in the countries to which they have migrated. Some migrants interviewed in Portugal admitted the need to reverse the financial flow for their survival in Portugal.

2.4 Housing

Both in Spain and Portugal, access to housing by Brazilian immigrants starts through rental. At first, many informally sublease rooms in apartments rented by members of their social network who are already regular; they live, therefore, in collective housing with a high density of people. The purpose of this informality in rent, with the support of social networks, is to provide access to housing without bureaucracy and discrimination that may be experienced by irregular migrants. Over time, as some immigrants become regular, they start renting their own apartments. Home ownership is not common, except in a few exceptional cases, such as Brazilians who marry Europeans or who are subsidized by specific governmental social welfare programmes, as mentioned in the research report of the survey conducted with Brazilian immigrants in Spain.

2.5 Education

In Spain, most interviewees, including the irregular migrants, mentioned that they had easy access to public vocational training courses and Spanish language courses. A few have children in Spain and enrolled their children in private schools, apparently because they arrive from Brazil with the belief that public schooling does not provide the same quality education.

In Portugal, experience with the educational system is relevant to only a few of the migrants interviewed. Such experience is usually gained through the membership and attendance of university courses and, less commonly, enrolling children in primary education facilities.

In the study conducted with Brazilian returnees from Portugal, the few who had children in that country, or who took children with them, enrolled their children in child education facilities. These respondents showed satisfaction with the service, and at the same time, complained about the difficulty of enrolling their children in elementary schools in Brazil after their return.

2.6 Healthcare

Portugal has a universal healthcare system that serves both regular and irregular immigrants. The same was the case in Spain until August 31, 2012, at which point irregular immigrants in Spain were gradually excluded from the healthcare system through the non-renewal of their registrations. However, some autonomous communities have refused to follow these government decisions and have tried to reverse the situation.



In Portugal and Spain, most interviewees have resorted to the healthcare system in case of occasional diseases and to treat illnesses that require monitoring. Most interviewees expressed satisfaction with the services provided. In Spain, however, a case of racial discrimination was reported, along with another case of dissatisfaction with the treatment offered by health professionals. Only one interviewee was prevented from renewing his registration in the healthcare system following the change in legislation.

2.7 Access to social benefits

In Spain, social benefits are strongly linked to migration status. The majority of Brazilian migrants in regular situations have already received some type of benefit, such as unemployment insurance, maternity assistance, early retirement or scholarships for their children. Apparently, women with children have broader access to social facilities. However, irregular immigrants have no access to these benefits. Interestingly, they did not mention using the immigrants' associations to inform themselves about the benefits to which they are entitled, and do not use the public employment centres to search for jobs. The few who looked for help in these employment centres declared that they had not been particularly useful.

In Portugal, the right to social security is not restricted to regular immigrants. Irregular immigrants sign up for social security because registration is a condition for their regularization, but only those ultimately regularized can fully access the benefits. Social benefits for regular immigrants are unemployment insurance after a certain contribution period, family allowance for families with small children, maternity and paternity assistance, and subsidies for illnesses. As the possibilities for access in Portugal are broader, few immigrants are affected by the problems imposed by not being able to access benefits. The reward paid by these benefits is low and immigrants are forced to work, informally, to supplement their income. When the time of contribution is short, the consequence may be non-access to unemployment insurance. The voluntarily unemployed have no right to this benefit.

The great majority of the interviewees were aware that contributions made to social security in Portugal and Spain can be transferred to Brazil, even if there is little information about how to access this right after they return to their home country.

2.8 Perception of social and political rights

The surveys showed that Brazilian communities have generally limited knowledge of their rights. Nevertheless, this awareness varies according to the specific migration status, with irregular immigrants having less information and regular immigrants having more, albeit still with few details. Apparently, immigrants search for information about their rights only in case of concrete necessity.

As for political rights, the Portuguese law gives the right to vote to all foreigners with regular status, provided that the law in the country of origin is reciprocal, as in the case of Brazil. However, there is a relative lack of interest regarding the exercise of these rights.

2.9 Social networks and daily life

In Portugal, the great majority of immigrants interviewed do not have a household of their own. Few have relatives in the country of destination and, when they do, they tend to be siblings



or cousins, part of the same migration network. This situation suggests more freedom in the definition of future migration projects and favours more room for autonomous sociability networks.

In contrast with Portugal, some interviewees had family members in Spain, as well as other relatives in Brazil for whom they are responsible. Those with student status usually have Spanish friends and friends from other countries, as a result of their university-based lives. The remaining immigrants tend to keep Brazilian friends, and have some difficulty with the Spanish culture, especially due to the way the Spanish nationals speak, which is considered abrupt. This difficulty tends to be resolved in the course of time.

Either for regular or irregular immigrants, friends and family networks are supportive for the resolution of most problems, and allow for a normal social life including several activities. In one case, the social life was strictly related to church activities, and in two other cases, the immigrants decided to limit their social life because they were once inspected by policemen in the street and received letters of expulsion.

2.10 Return to Brazil

Despite the economic crisis and the usually precarious entry into the labour market, only a minority of Brazilian immigrants interviewed in Portugal and Spain expressed the wish to return to Brazil. Others stated indecision in this regard, or the desire to remain in those countries. The reason to remain is the possibility of a new professional perspective, or the perception of a superior quality of life in Portugal and Spain. Among those who wish to return are those with children back home, or those who envision better income opportunities in Brazil as a result of the qualification obtained in Spain (students, for instance), as also those who find obstacles to their regularization.

Regarding the Voluntary Return Programme coordinated by the International Organization for Migration (IOM), the majority of respondents stated that they know about the programme, but expressed unwillingness to use it. This may be due to the programme's restrictions, which include the delivery of documents, making the return to these countries less likely. This may be problematic in case they do not readapt to Brazil.

2.11 Acquisition of Portuguese and Spanish nationalities

In Portugal, since 2006, when considerable alterations were made to the legislation, the possibilities of becoming a national, by acquisition or birth, were numerous; this increased the number of Brazilian citizens who wished to obtain Portuguese nationality. The main reason for the acquisition of a European nationality is the freedom of circulation between Brazil and Europe. The possibility of acquiring a European nationality seems to have contributed to a greater interest in the access to rights, the issues related to citizenship, and a feeling of "double" belonging.

In Spain, the consensus among the interviewees is that the process to obtain Spanish nationality is extremely long and bureaucratic, but still, most immigrants in irregular situation see the obtainment of nationality as a possibility to have a more comfortable life, and to find jobs in Spain and other countries in Europe. Those who have made the request for nationality have done it via ancestry.



2.12 The value of institutions

In Portugal, the access of immigrants to benefits and social services was praised by the interviewees, after the immigration and integration policies and the “Lula Agreement” (July 11, 2003).⁸ Nonetheless, they identified improvement opportunities, such as accelerating the migration process, creating more opportunities for regularization, decreasing the time of contribution needed to access benefits, enabling easier access to better employment centres and more employment offers.

Among the interviewees in both studies, a demand for improvement in the quality of information was detected, both by the Brazilian government and the Portuguese and Spanish institutions. In the case of Portugal, the “Lula Agreement” is mentioned, and there is demand for a similar agreement in Spain.

The institutions interviewed, and some Brazilian immigrants, recommended that the Brazilian government, including the diplomatic network, provide broader support to immigrants, especially in light of the period of economic crisis in both European countries, which increased the demand for the facilitation of return and for more reintegration programmes that should receive increased attention.

⁸ Signed on July 11, 2003, the agreement – known within the Brazilian community in Portugal as “Lula Agreement” – expects the legalization of all Brazilian citizens who entered the country prior to the date of signature of the protocol, and also determines that they receive valid employment contracts.



3. RESEARCH SUMMARY

BRAZIL-EUROPE⁹

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3.1 Introduction

This text is a summary of the study *Migration Brazil-Europe: The situation of Brazilian migrants who returned from Europe at the beginning of the 19th century*. For this study, migrants and non-migrants who had returned from European countries, particularly Spain and Portugal, were interviewed in the cities of Governador Valadares, in the east of the state of Minas Gerais, and Aparecida de Goiás, in the state of Goiás. In addition, representatives of nongovernmental organizations (NGOs), and local, state and federal authorities that had a direct or indirect relationship with the international migration process were also heard.

The methodological approach of the research is qualitative and based on subjective accounts; it reveals the way the subjects involved perceived their daily lives. The data source used was the natural environment, the investigation was descriptive and the data collected was presented in words or images. The instruments used, therefore, have a qualitative investigative approach and included structured interviews and focus groups. There is a need to comprehend the immigrant's thinking, understand its representation and its language. In this case, the qualitative approach and the interviews, within a longitudinal perspective, allowed the appropriate conditions for the researchers to achieve the goals of this survey.

The focus group or discussion group, also applied in this research, is a tool of qualitative nature, and represents an opportunity to comprehend the construction of social perceptions, attitudes and representations of the subjects of the research regarding the target theme: migration.

The researchers sought to combine different migration stories when forming the groups of immigrants, ensuring equal participation of men and women. Those selected were individuals with a migration path that included Portugal.

In the case of non-migrants, the criteria was to include in the group those people who had life stories tied to people who migrated, for example, children and spouses of immigrants,

⁹ Migration Brazil-Europe: The situation of Brazilian migrants who returned from Europe at the beginning of the 19th century.

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and also people who, within their family background, did not have any close contact with the migration process. The researchers have made efforts to maintain a balance in the group along lines of gender.

The first stage of the study was executed between March 27 and April 5, 2012. The sites chosen were the cities of Governador Valadares and Mantena, in the state of Minas Gerais, recognized as places of high levels of emigration to Portugal. In this state, in addition to the interviews, focus groups with migrants and non-migrants, men and women, were also established. In its second phase, the field work was taken to Goiás, especially the cities of Goiânia, Aparecida de Goiânia, Varjão and Piracanjuba, between April 29 and May 5, 2012.

In the state of Goiás, individuals of both genders who returned from migration experiences in Europe, particularly Spain, were interviewed, in addition to representatives from those institutions responsible for receiving and accompanying returned immigrants; government and civil society leaders active in the discussion of the Brazilian immigration process and its impact in the Brazilian society were also interviewed.

3.2 Research results

3.2.1 Profile of Interviewees

The spectrum of interviewees for this study consisted of international migrants returned from Portugal, Spain and other European countries, and non-migrants of both genders, interviewed both individually and in focus groups.

In Governador Valadares/MG, individual in-depth interviews were conducted and two focus groups were organized with non-migrants, one with women and the other with men. Two further focus groups with male and female migrants were conducted in the city of Mantena/MG, located in the micro-region of Governador Valadares/MG.

Efforts were taken to ensure a balance of representation for both genders, in order to keep gender parity in our analysis. This goal was reached in Governador Valadares, but not in Goiás, where the feminization of migration flows to other European destinations is greater in comparison with the Portuguese flows.

When comparing men and women in the assessment undertaken in the city of Governador Valadares/MG, we noted that migrant women are older, with higher educational levels, who migrated before the economic crisis of 2008 and remained in Portugal longer than men.

Participants in the focus groups with migrants were slightly younger at the time of migration than the Brazilian migrants in Portugal detailed in the study by Góis, Marques, Padilla and Peixoto (2009), which reports ages between 20 and 39 years, and an average age from 32 to 40 years.

The focus groups of non-migrants found men and women with higher levels of education in comparison with migrants, predominantly among those who resided in Governador Valadares.

Following the analysis of the results obtained from these focus groups, we noted that non-migrants spoke of the migration process from experience, as most of them have seen this phenomenon up close through their friends and relatives.



3.2.2 *The migrants' view*

3.2.2.1 **The migration process**

Among the female migrants, the majority were involved in only one migration, with a few exceptions. Among these exceptions, one person migrated to Portugal twice, remaining on Portuguese soil for a total of 3.5 years. Another migrant went to Brazil for a short visit before returning to Portugal. Some, who created bonds with other Brazilian residents in the country of destination, are divided between their countries of origin and destination, spending long periods in both places. That is the case of two migrant mothers, resident in Spain and Italy, who have left two daughters in Brazil, one child and one teenager. The child and the teenager were interviewed for this study in the city of Pirancanjuba/Goiás. The aunt of one of them, currently married to an Italian citizen, has also taken the same circular route.

Still in Goiás, we identified one case of an immigrant with two instances of migration, the first to Portugal and the second to Switzerland. All other interviewees migrated only once. Among men, we noted that involvement in two or more migration processes is more frequent.

With regard to entry status in Portugal, only one migrant reports having entered with a residence authorization (acquired through his family's residence in that country). In this case, this is considered migration with the purpose of family reunification. All other migrants entered Portugal with a tourist visa and remained irregularly after the end of its validity. Among those who stayed irregularly, four reported that they had migrated to reunite with their husbands, who were already in Portugal and Spain, and one person migrated to reunite with her daughter. The latter was worried about her daughter, who she stated was 18 years old and had been taken to Portugal to work in a coffee shop. She found out that her daughter was not working in the coffee shop, but elsewhere, which raised her concern and motivated her to go look for her.

The men entered with tourist visas, and the majority was quickly and irregularly incorporated into the workforce, with the exception of one migrant interviewed in Goiás, who went to Italy and spent six months unemployed, living from the social support of local churches.

With the exception of women who migrated to reunite with their families, most of them reported that the motivation to migrate was to "make money and come back to Brazil in a better situation." Only two interviewees in Goiás, who migrated to Belgium and Spain, reported that they travelled with the goal of staying in those countries and becoming citizens. One of them already had a sister living in Belgium who was married to a Belgian citizen, so she decided to go with her husband, in hopes that, with her sister's help, she could become regular and gain citizenship. The woman who migrated to Spain with the intention of working reported that she intended to stay there and not return. When the alternative of employment did not work, her social network introduced her to an older Spanish man who wanted to get married. They were married after only one week of her stay in Spain. None of them reached their goals. The woman who went to Belgium did not legalize her stay, and the one who got married was convinced by her Spanish husband to go and live in Brazil.

Among the men, working, saving and returning home were the motivations of all those interviewed, and no case of family reunification was reported. This is due to the fact that, among couples, men usually migrate first and their wives follow, migrating mostly for family reunification.

Based on the accounts of most men participating in the focus group at Mantena, and some women from the female focus group at the same location, it was revealed that savings is



the primary priority of migrants; this leads to excessive working hours with the purpose of saving money and returning to Brazil. However, some also said that, in the course of time, life returns to normal and the priority given to savings lessens, meaning that they start spending more money and looking for a better life in the country of destination.

Regarding the reception of migrants, three women reported that they had entered Europe through Madrid and that, upon arrival at the airport, they were intensely questioned about the reason of their visit to Spain. One of them reported that the same thing happened the second time she emigrated, when she entered Spain through France. The questionings pertained to the financial resources available for travel, planned stay, and who would be responsible for receiving them. One of the migrants who entered through Madrid stated that she had been asked if she was emigrating to become a prostitute. However, she was able to establish a respectful dialogue with officials and entered without problems. The one who briefly visited Brazil after migrating reported that, upon her return to Portugal, she was detained for two hours in Madrid and interrogated. As this was her second entry in Europe, she showed her employment contract and stated that her employer was waiting for her at Lisbon airport. She missed her connecting flight to Portugal, but was accommodated on another flight. The other women reported that entry in Portugal was easy, after simply showing the Brazilian passport.

The men aired some complaints about mistrust demonstrated by the airport officials and ill treatment received. One participant reported that they were “obstructed” at the airport, without the right to make phone calls. They reported that the airport officials offered them a calling card with €1.50, with which “you can’t speak with anyone,” and that they were stuck at the airport, sometimes overnight; for this reason, they missed their flight to Portugal. A male migrant stated that the treatment is “terrible; inside the airport is terrible for any human being.”

The support of social networks, which serves as a source of information about the entry process in Portugal, was mentioned by women from the focus group in the city of Mantena. Almost all interviewees stated that they had received previous instructions from their social networks about possible questionings and the answers they were expected to give. All agree that, besides these instructions about the day of arrival, they had little information about what they would find at their destination.

In Goiás, it was obvious that the social network formed by women who are already residing in Europe, married to European men, encouraged the migration of Brazilian women who were already considering this as an option, or at least were open to it; this creates an informal network favouring such unions.

These social networks not only provide information about the arrival and the entry process, but also offer support for the initial integration into the labour market. All interviewees, individually or in focus groups, reported that they had received some form of support from acquaintances or relatives at the place of destination, both for employment access and the initial housing solutions.

3.2.2.2 Experience of employment

Both men and women who have migrated to Portugal said that it was easy to get a job there, and that they spent only a few days without employment. In most cases, relatives and friends already in the country had helped them to find employment. The same is true for migrants whose destinations were other countries in Europe.



In Portugal, men worked predominantly in the civil construction field, as masons, painters, masons' assistants, *inter alia*. They revealed that, between 1999 and 2004, there had been large-scale investment in civil construction as a result of the European football championship that took place in 2004. Most of them did not have any experience in the field, but had to learn as this was the only job they would get.

Women worked as maids, cooks, kitchen assistants, waitresses, meat producers in rabbit farms, vegetable planters, dishwashers in restaurants, and care providers for the elderly.

The work conditions, for both men and women in any of the destinations researched, were characterized as long and filled with extra hours.

The relationship with Portuguese and foreign colleagues in general was considered good by most participants of both focus groups conducted in Mantena/MG. Some interviewees complained about the Portuguese that they blamed immigrants for unemployment and for the country's high interest rates.

As for wages, interviewees in Minas Gerais mentioned three situations: one where payment was calculated by the hour, without a fixed salary; another in which payments were made through temporary contracts of up to 6 months; and a third, specific to women, where the wage was fixed in the summer and calculated by the hour in the winter.

All stated that they did not have the opportunity or the interest to know their rights, as they were occupied with their jobs and were interested in making more money to survive in the country of destination and still send some money to Brazil.

3.2.2.3 Experience of housing

Housing arrangements in the country of destination vary and change over time. Typical arrangements include courtesy housing (offered by friends or relatives); collective housing (shared with several people, including relatives, dividing the costs); and individual housing and housing provided by employers.

Initially, the most common arrangements are courtesy housing, used while awaiting employment, or collective housing, usually with the social network that encouraged and/or supported their migration. As they become increasingly integrated, migrants increasingly live autonomously or in housing provided by the employer, assuming that a certain level of stability exists in the relationship with the employer.

Rent in Portugal, although considered expensive, does not seem to be as restrictive as in other countries. In a section of one migrant's interview, she reported that her experience renting a home in Belgium as discriminatory towards immigrants.

None of the participants reported having bought a home. Some knew Brazilians in Portugal who had been able to buy homes but ended up renting them, due to high interest rates. They stated that if the migrant was regular, he or she would have the same rights as Portuguese citizens with regards to the financing of a home purchase, particularly if helped by their employers.

Most interviewees reported that excessive work and collective housing, or housing granted by the employer, makes socialization more difficult in the areas where they live. Only one migrant mentioned that she had developed a good relationship with her neighbourhood, which was friendly and helpful, but mostly comprised of Brazilian citizens.



3.2.2.4 Access to healthcare

All participants, both male and female, say they were satisfied with the Portuguese healthcare system's free provisions when they needed medical assistance. This was the case for both emergency care and preventive medicine, such as prenatal in the case of women, and routine examinations in the mobile units that served the area surrounding their workplace.

They reported that the service required registration and the concession of a health card tied to a monthly contribution of approximately €10, which was automatically discounted from their salaries.

There were numerous positive reports on the infrastructure of the health facilities, the skills of its employees and the absence of discrimination in healthcare. Subsidies for the purchase of pharmaceuticals were also mentioned.

3.2.2.5 Access to education

Among the focus group participants who had returned from Portugal, only one female migrant, who had migrated to Portugal with her parents when she was sixteen, had an opportunity to go to school. She went to elementary school with her sister and stayed in school full-time. She reported having had some difficulty with the language, but generally spoke positively of the Portuguese educational system.

In the male focus group, several participants had experiences with the school system through the education of their children. Several praised the system for being full-time; they left their children in school when going to work and would only pick them up when returning home. Moreover, they stated that education was free and the child would be fed and bathed in school. One difficulty mentioned by the adults was the language, but the language posed no problems for the children.

Among the interviewees, all migrants had some experience in the area of education, both through their children and on their own.

The remaining migrants who had children at school age while they were living in Portugal reported having no difficulty in enrolling their children in full-time public schools and rated the teaching of other languages as high quality. They also stated that, upon their return to Brazil, their children's school transcripts were quickly approved by Brazilian schools.

One migrant whose grandson went to school in Portugal reported difficulties adapting to a Brazilian school for two reasons. One was cultural and related to the prejudice of Brazilian children against boys with an interest in dance, an optional activity available to both genders in Portuguese schools. The other reason related to differences between the Brazilian and Portuguese vocabularies. The grandmother in this case mentioned situations of homophobic and linguistic bullying against her grandson in Brazilian schools.

The comments of Brazilian migrants interviewed individually in Goiás about their access to education in Belgium, Spain and Italy were equally positive. Only one migrant reported adaptation difficulties experienced by her niece, which related specifically to the rigidity of Italian school discipline relative to that in Brazil. Her niece did not adapt in Italy and returned to Brazil, not only because of the school experience, but also because of the weakened bond with her mother, who left her in Brazil with the grandmother when she migrated to Italy. According to the interviewee, however, the difficulty in adjusting to the Italian school also contributed to her niece's general lack of adaptation.



3.2.2.6 Access to benefits and social facilities

The focus group of migrant women commented much less than the male migrants on the topic of access to different social benefits and facilities. Women stated only that they had access to libraries with internet access, books, films, art exhibitions, etc. To be able to access this free service, they only needed to register. One of them complained that the working hours of these facilities were not compatible with the long working hours of migrants and that, frequently, they had to go to internet cafes and pay to use this service because the libraries were already closed after their workday.

Another aspect mentioned by one of the women was the migrant workers' right to social security. She pays a contribution, which allows her to request, in the Brazilian social security system, the amount equivalent to the time she worked in Portugal. The interviewee reported knowing about this right, but she also said she had not exercised it yet, keeping the documentation safe for when she eventually needs it. In this case, the right is known but a certain resistance in claiming it prevails as a result of the difficulties involved.

Regarding elderly care, the participants mentioned the case of an elderly Brazilian citizen who had a stroke and received, in addition to medical assistance, access to support groups and social, cultural and tourist services, all at no cost.

Among the individual interviewees, migrants' accounts reveal that the majority have no information about rights, benefits and social facilities. They seem to seek this information only when they find themselves in specific situations of vulnerability.

In the case of migrant workers, those who were regular and had a work contract in Portugal expressed a degree of doubt about the validity of the amount contributed in those countries for their retirement in Brazil. They knew about their right to the benefit transfer, but had not received enough information about the scheme at the social security agencies in Brazil.

One migrant grandmother shared a touching story about the difficulties she faced when her two grandchildren were handed to her by her daughter in Portugal. She said that she needed the assistance of a Portuguese social worker to have access to the children's rights: child care (which she called "*infantário*"); survival subsidy (family allowance); healthcare; in addition to an attorney to register the children in the Consulate and request their custody. After experiencing this with her grandchildren, she became more aware and began exercising her rights; she seemed satisfied and showed gratitude to the employees who helped her in the Portuguese social security office. She returned to Brazil with all documentation, including medical and psychological reports, referring to her health and the social assistance provided to her and her grandchildren.

The individual interviewees in Goiás spoke little about access to other benefits or social facilities. In the case of Italy, however, it is clear that there is a Christian social network supporting migrants, managed by religious institutions; this partly fills the gap left by the public service regarding the welfare of irregular migrants. They mentioned dorms, shelters, low-cost restaurants, donations of clothes and blankets, in addition to the access to churches as socialization spaces for Brazilians in similar situation.

3.2.2.7 The impact of migration on the family

There are recurring indications that instances of migration have a considerable impact on family relations in the discussions of all focus groups. When speaking of the rationale for



migrating, cases of family vulnerability, which demanded difficult choices in search of a way out, are mentioned repeatedly. This is even more evident in the statements of those women who had left their children behind in order to migrate. Three migrant women reported that they had left their children with former spouses or with their mothers. Two made it clear that they left the country because it was the most reasonable option for financial autonomy in a situation of divorce and financial abandonment by former spouses. They mentioned situations of poverty and lack of food for their children.

One migrant reported the indefinite loss of contact with her son, who has not forgiven her for migrating, and chose to stay with his father after she made a litigious attempt to regain custody after returning to Brazil.

Men reported suffering from loneliness in Portugal without their families, and commented about attempts at family reunification after a certain level of integration in Portugal. They stated that they had begun to value their families more deeply after their migration experience. They spoke of emotional needs and reported cases of alcoholism, post-migration divorce and emotional imbalance. They also mentioned the loss of contact with family members and the death of loved ones who fell ill and died in their absence.

In the interviews conducted in Goiás, owing to the deeper local ties at the country of destination created by marriages, there is a clearer division within families and constant movement of women and children, who are divided between Brazilian and European family members. While, in Governador Valadares, there are more definite returns to Brazil, with family reunifications and definite re-adaptations, in the case of Goiás, the repeated migrations and returns seem to have a greater impact on families; this is particularly the case with children regarding their bonds with their parents. This is an aspect that requires a specific and detailed investigation for the development of appropriate public policies.

3.2.2.8 Evaluation of the migration process

For both women and men at our focus groups, the final evaluations of the migration are always positive. They highlight experiences of learning and maturation resulting from their difficulties, as well as the valorization of their family and their country after their return. They value the opportunity to become familiar with another country and culture. They tend not to express regret. They reveal increased self-esteem resulting from the material accomplishments and the autonomy, both financial and emotional, acquired during their time as migrants.

However, this evaluation reveals some contradictions. They seem to miss Portugal, expressing wishes to return only to visit, or to show their children the country of their birth and where they acquired their second nationality; they regret certain losses when they return home, particularly access to consumer goods and travel opportunities, which are deemed better in Europe. At the same time, they recognize that they found a more developed Brazil after their return, in a different situation than when they migrated, with better job opportunities, greater access to consumer goods and better healthcare.

The woman who left Brazil due to her divorce and financial difficulty and who lost custody of her son said that she loves God first but Portugal next; she said it gave her the opportunity to become the strong and independent woman she is today.

Many seem to know that, today, migration experiences to Portugal are different, due to the economic crisis and the increased difficulty of finding a job. They commented about what they hear from those who are still there. Ultimately, they make positive evaluations of the



experience, but express the sentiment that their place is in Brazil with their relatives, and do not wish to repeat the experience because they know that the conditions would not be the same.

Among the individual interviewees in Governador Valadares, when asked to evaluate the migration process, all answered unanimously that it was worthwhile as a cultural and professional experience. They reported the unfriendly behavior of the Portuguese, particularly in the workplace; the country's natural beauty spots; the job opportunities; the possibility of improving their lives in Brazil; the lack of preparation of Brazilians who emigrate, among other aspects. It is clear that they do not recommend migration at present because of the severity of the European crisis and the improvement of the situation in Brazil.

On the other hand, some interviewees spoke of missing Brazil, their families, relatives, friends, and also of returning to a changed country, "for the better, of course." Those who remained in Portugal for many years reported a certain difficulty in adapting to Brazil, owing to significant changes in economic terms, but also in social issues, such as violence, the relatively poor quality of the healthcare system and the need for more investments for a better quality of life in general.

Besides the positive evaluation of the migration experience, when the interviewees were asked if they would still have migrated had they known, prior to their departure of the obstacles they would face in the country of destination, most of them said that, "despite the success," they would have given up on their migration project.

This evaluation considers the situation of those who stayed in the country of destination and the progress they made in their professional lives. In the less-positive evaluations, they also think about the personal losses and family relationships and friendships that were interrupted or ended.

The interviewees from Goiás also positively evaluated their migrations, even when concluding that they had not reached exactly what they had hoped for such as acquiring citizenship or authorization for permanent residency, making enough savings needed to improve their socioeconomic status in Brazil, seeing children and adolescents fully adapted to the countries where their mothers had migrated, etc. A positive evaluation is always attributed to the experience gained and the consequent personal maturation.

Also among the migrants from Goiás, the recommendation to other people that they should not migrate without complete information about the country of destination is recurrent. These recommendations are stronger among the cases of migration to Italy, where the obstacles are more numerous.

3.2.2.9 Government actions in support of migrants

The last issue discussed in the interviews was suggestions given by migrants of possible governmental actions in support of immigrants, and on how to get more information on their rights. In general, male migrants were more outspoken than women.

Regarding the knowledge of their rights, they suggested the making and exhibition of a film to communicate and discuss the "life experience of who was there," the life experiences of the Brazilian immigrant.

One participant highlighted the importance of visiting the Brazilian Consulate in the country of destination to become informed about immigrants' rights, noting that, most



of the time, they arrive without this information and do not know who to look for in case of difficulties.

Interviewees criticized the service at the Brazilian Consulates, citing long lines, insufficient human resources for the service demand, precarious physical space, delays in the delivery of documents, and failure in providing information about the Consulates and referral mechanisms. Some also complained about a lack of financial support to transport the bodies of deceased family members to their home country.

Some participants in the study seemed to have information about the bilateral social security agreement between Brazil and Portugal. However, there are several mistaken assumptions, such as that one year of work in Portugal is equivalent to two years of work in Brazil. They also reported the employees' lack of knowledge about the agreement at the social security agencies in the city of Governador Valadares, and about the procedures necessary to transfer the benefits.¹³

3.2.3 Dialogue with institutions and authorities

The dialogues with governmental institutions and NGOs were divided into three parts, roughly representing the course of this investigation. The first set of statements was collected in the city of Governador Valadares and included representatives of the local government, NGO administrators and participants of academic research groups. Other people involved were associated with the Women's Rights Police Station, the state's civil police and the city's Federal Police Station.

The interviews in the state of Goiás reported more contact with local authorities and NGOs that are dedicated to tackling human trafficking and, at the city level, the dialogue took place with representatives from social services. At the federal level, the institutions directly associated with the issue of migration were contacted, and also, in the case of Portugal, the Liaison Officer of the Foreigners and Borders Service, at the Portuguese Embassy in Brazil.

The statements gathered indicated a real interest in the migration experience and its consequences. In each region visited, the social players indicated their concerns about the issue, reflecting the local experience. A more integrated view on international migration that would allow the implementation of broader policies seems to be missing.

It is worth mentioning that, while in Governador Valadares concern about labour migration is a recurrent theme, in Goiás, the most discussed theme is human trafficking. During the course of this survey, trafficking situations in the region of Minas Gerais and problems related to labour migration in the state of Goiás were observed. This indicates that the exchange of experiences between the different players involved could contribute to the reconstruction, in regional terms, of a broader view of international migration.

The rights of Brazilian immigrants in Portugal, and Brazilian returnees, were discussed in interviews with leaders of the following institutions:

- Citizenship Promotion Pole (*Pólo de Promoção da Cidadania*) from UNIVALE;

¹³ Contact with the INSS's agency in Governador Valadares indicated that the technicians know the correct procedure to request the inclusion of the time worked abroad into the retirement fund request in Brazil. The problems occurred as a result of the limited disclosure of the information.

- Children and Adolescents Rights City Council (*Conselho Municipal dos Direitos da Criança e do Adolescente*);
- Child Protection Council (*Conselho Tutelar*);
- Development Secretariat from the City of Governador Valadares.
- Information and Technical Assistance Centre (*Centro de Informação e Assessoria Técnica – CIAAT*) of Governador Valadares/MG.

Due to the fact that family relations and the future of children and adolescents had been recurring issues in the results of interviews with both migrants and non-migrants, the institutions selected were those that deal particularly with those issues.

3.2.4 Final considerations

About the migration projects

In the interviews conducted with migrants, the following conclusions could be reached:

- The majority of migrations are labour-related, but migrations for family reunification purposes also occur, particularly among women. Both tend to take place irregularly, with few exceptions.
- The most common entry is with a tourist status, after which migrants find themselves working irregularly. Many return home before regularization. The ones who stay longer usually become regular through employment contracts.
- Entry into European countries of destination imposes few obstacles and is cheaper than migration to the United States, for example. These are among the explanations given by the migrants interviewed for their choice. In the case of Portugal, the ease of the language is also pointed out as an attractive factor.
- The social networks in Brazil, and those already settled in European countries of destination, have an important role in the execution of the migration project, as they not only provide information about the arrival and the entry process, but also offer the initial support, the integration into the labour market in the country of destination or even provide information about the option of marriage as an option for regularization. This option occurs especially among women interviewed in Goiás, who have migrated to other countries besides Portugal, such as Spain and Italy.

About the impact of migration in the family

According to the migrants, non-migrants, institution representatives and authorities interviewed, migration generally has a negative impact on family relations, even considering the possibilities of financial gain and the improvement of the quality of life.

About the general evaluation of the migration project

All interviewees recognized positive impacts on their family's quality of life after their return, with happy family reunifications, especially those that took place before the economic crisis. However, they do not recommend international migration in the current



economic scenario to any country of destination, especially Spain and Portugal. They seem to be conscious that today the costs for family and community living may be higher than the financial gain.

Those who both migrated to Portugal and returned to Brazil before the economic crisis of 2008 stated that they did not face many difficulties in finding a job and stayed longer; many had their work situation regularized and looked for information about their rights while they were there. They returned with more positive impressions of their experiences, even when admitting that the migration process is demanding and tough. They also reported fewer difficulties in adapting to Brazil upon return.

Women returned from Portugal reported more difficulties and harsh experiences than men. They told stories of sexual harassment, attempts at sexual violence, lower wages than men and discrimination in the workplace by immigrants from other nationalities.

Even reporting so many difficult experiences, they evaluated their overall experiences positively.

About employment

According to the migrants' reports, the initial success of finding a job, usually with the support of the social network that facilitated migration, was quickly replaced by the difficulties resulting from irregular status and disrespect for workers' rights.

The lack of information about their rights makes these workers easy preys for businesses that want to take advantage of their irregular situation in order to exploit them.

Both men, who worked mostly in civil construction, and women, who were usually employed in restaurants or domestic services, reported extensive workdays and difficult relationships with their employers.

An employment contract may open doors to regularization, lead to changes in the work relationship and, as a result, expand the protection of workers' rights. However, this option was not usually available; indeed it was not desirable, as within the logic of the migration project, any expense, including those resulting from the regularization process, could jeopardize the monthly savings target.

In sum, the precariousness of work relations and the irregularity of the employment situation contributed to disrespect of workers' rights. When leaving the country of origin, the lack of information about the type of work and the conditions of employment they will find in the country of destination reveal the need for a better understanding of what they would find ahead before deciding to proceed with the migration project.

About housing

Housing arrangements, besides being diverse, vary according to the extent of integration and the stability of work and income.

In most cases, the network that contributed to the migration process initially facilitates access to housing. This is one of the main expectations of immigrants upon arrival in the country of destination.

Because this is one of the items that have the most impact on the migrants' budget, they seek to minimize outgoings for rent, living in collective homes where the relationships



developed can frequently become contentious, as a result of the migration context itself. This creates a need to find new living arrangements. In order to ensure a home other expenses are sacrificed, such as possible leisure expenses.

In the case of irregular immigrants, the situation is critical, because access to the real estate market is further limited by the precariousness of the migration situation, which discourages proprietors from closing contracts.

In summary, according to the immigrants' view, the biggest challenge is to reconcile the cost of housing with the income obtained and the intention of saving some capital, which is the migration project's main goal. The purpose of the housing arrangements is to maintain social networks and reduce the cost of an important item in the family budget. In the course of time and with the continuous integration in the place of destination, the possibilities of access to housing are extended, and so are the chances of becoming a home owner.

About the governmental actions

The need to know the role and activities of Brazilian authorities abroad, the procedures to benefit from bilateral agreements between Brazil and European countries, and general knowledge of the rights and responsibilities of Brazilian citizens in other countries were recurring themes.

Another issue that was repeatedly raised was the concern with what was called "migrant culture," a situation which, in some interviewees' understanding, perpetuates emigration, especially among young people, thus influencing the lives of residents in the communities of origin. Discouraging this would only be possible with public policies aiming at local development, and generating job opportunities and better life conditions in the region through joint actions in the three levels of government (city, state and federal); this could begin with the introduction of the migration and human rights themes in the school curriculum.

About health

Based on the testimonies of both male and female participants, a certain level of satisfaction can be observed with the healthcare system's provisions in cases where medical assistance was needed. This satisfaction was observed both in cases of emergency care and preventive medicine.

Still based on the discussions, the only ones who were not helped were the migrants who did not look for medical service for fear of being deported or discovered as illegal. We believe some of these problems are linked to a lack of knowledge about Portuguese and Spanish legislation, either on the part of immigrants or health professionals, which makes access to the healthcare system embarrassing to some migrants. One of the greatest difficulties felt by immigrants relates, especially, to the lack of information about their rights and duties, as well as the ignorance regarding how to establish a relationship with the national health services.

About education

Regardless of its situation, the Portuguese State and the Constitution that rules it ensure the application of the Universal Declaration on Human Rights and the United Nations Convention



on the Rights of the Child, particularly in relation to the provision of healthcare services and access to education. Therefore, no child residing in Portugal could be prevented from attending public or private schools, in equality of rights with the children of Portuguese nationals.

To the immigrant students, or children of immigrants, the State guarantees a set of support initiatives in the area of education with the goal of overcoming difficulties to integrate in the Portuguese educational system; these consist particularly of the teaching of the Portuguese language, cultural diversity and curricular adaptation.¹⁴

This research showed, in general terms, that most immigrants are part of disadvantaged social strata. The parents of these children had low levels of education and no professional qualification that would benefit their social and professional integration, making the acquisition of the material goods (adequate housing, balanced diet, school supplies, among others) and human assets (intellectual skills and time available to follow their children's school life) necessary for a successful education more difficult.

It is also important to highlight that the interviewees reported that they were quickly admitted to Brazilian schools when they brought their school transcripts from their destination countries.

About the access to benefits and social facilities

The documentary research, concurrent to the field work, reveals the possibility of the almost universal registration of tax-paying immigrants in the social security system of Portugal. It is worth mentioning that even irregular immigrants can register, provided that they present some formal bond with an employer institution, or contribute autonomously. Registration in the system and the proof of discounts seems to be one of the conditions required for regularization by immigration legislation.

Reports obtained in the field reveal that most immigrants have no information about their rights to benefits or social facilities. However, this information is usually sought when the immigrant is going through a situation of vulnerability.

One aspect pointed out was the right of migrant workers to access, in Brazil, the social security paid for in Portugal. In this case, the right is known of, but there is certain resistance to exercising it because of the difficulties related to the procedure required to do so.

Most immigrants find themselves protected by social security through the pension system (contributory provision). For those who are protected through the non-contributory provision (social citizenship protection system), the scenario is more complicated. Nonetheless, some immigrants who are excluded from the contributive system benefit from other support initiatives for non-contributors. This is possible through the solidarity system, which allows foreigners access to benefits such as social insertion income; and the social action system, generally a responsibility of autarchies and Private Social Solidarity Institutions¹⁵ (IPSS); it does not limit any coverage because of nationality or legal status.

¹⁴ Foreseen for elementary school at Decree-Law 6/2001.

¹⁵ The Social Solidarity Private Institutions (IPSS) are not-for-profit institutions founded by private citizens, with the purpose of giving organized expression to the moral duty of solidarity and justice among individuals, and may not be managed by the State and public authorities.



With regards to access to different benefits and social facilities, the interviewees stated that they only had access to the library, with internet access, books, films and art exhibitions. In order to have access to this free service they only needed to register. They also commented on access to child care, unemployment insurance, computer training courses, domestic violence prevention programmes and elderly care (support groups with social, cultural and tourism services).

The interviewees from Goiás spoke little about access to other benefits and social facilities.



REFERENCES

BÓGUS, Lucia Maria Machado and BASSANEZI, Maria Silvia C. B. "Do Brasil Para a Europa: Imigrantes Brasileiros na Península Itálica neste Final de Século." In: **Anais do X Encontro de Estudos Populacionais**. Caxambu: ABEP, 1996, v.2, p.893-916.

Available at: <http://www.abep.nepo.unicamp.br/docs/anais/pdf/1996/T96V2A12.pdf>

CHIZZOTTI, Antonio. **Pesquisa em ciências humanas e sociais**. 8th ed. Sao Paulo: Cortez, 2006. 164 p. (Biblioteca da educação. Escola16) ISBN 8524904445.

FERNANDES, Duval M., PINTO, Leila M.M. Lazer de imigrantes brasileiros em Madrid. In: **Anais do XXI Encontro Nacional de Recreação e Lazer**. Florianópolis, 2009.

FERNANDES, Duval M.; RIGOTTI, Irineu. Brasileiros na Europa: notas preliminares. **Anais da 1ª Conferência Brasileiros pelo Mundo**. Itamaraty, Rio de Janeiro, 2008 (accessed on 07/10/2012). Available at: <http://www.brasileirosnomundo.itamaraty.gov.br/conferencias/2008-i-conferencia-brasileiros-no-mundo>).

International Centre for Migration Policy Development – ICMPD. **Transatlantic Journeys: An Exploratory Research on Human Trafficking from Brazil to Italy and Portugal**. Vienna: ICMPD, 2011.

MARTES, ANA Cristina Braga. **O compromisso do retorno: remessas de emigrantes brasileiros (relatório final)**. Fundação Getúlio Vargas: Sao Paulo, 2005 (mimeo)

MINAYO, Maria Cecilia. **Pesquisa Social: Teoria, Método e Criatividade**. Rio de Janeiro: Vozes, 1996.

SAYAD, Abdelmalek. **A Imigração ou os Paradoxos da Alteridade**. Universidade de Sao Paulo Publisher, 1998.

SIQUEIRA, Sueli. **Sonhos, sucesso e frustrações na emigração de retorno: Brasil/Estados Unidos**. Argvmentvm, Belo Horizonte, 2009.



4. COMPARATIVE STUDY OF THE MIGRATION LEGISLATION IN PORTUGAL, SPAIN AND BRAZIL¹⁶

Dr. Diego Acosta Arcarazo¹⁷

4.1 Introduction

The present report is a comparative study between the immigration legislation of Portugal, Spain and Brazil. The main focus of the study is to evaluate the different legal categories in which migrants may be included in each of the three countries, as well as the rights they are entitled to depending on their legal category.

In order to facilitate the analysis, the study was divided into six legal categories:

1. Irregular immigrants
2. Temporary residence
3. Family reunification
4. Permanent residence
5. Residence for citizens of the European Union (EU), the European Economic Area (EEA) and Switzerland, as well as family members in Spain and Portugal; and citizens of the Mercosur signatory states and associate members, in addition to family members in Brazil
6. Individuals who have acquired Spanish, Portuguese or Brazilian nationalities through naturalization.

¹⁶ The information on this report is valid as of August 15, 2012. Since the conclusion of this report, Decree 57/XII altered the Law 23/2007 in Portugal. However, this Decree does not substantially change any of the categories being discussed in this report. In Brazil, two new normative resolutions were approved by the National Immigration Council. Normative Resolution 99, from 12/12/2012, regulates the concession of work authorizations for the endowment of temporary visas to foreign citizens with employment in Brazil. It revokes Normative Resolutions 80, from October 16, 2008 and 96, November 23, 2011. On the other hand, Normative Resolution 98, from November 14, 2012, regulates the concession of work authorizations for the endowment of temporary visas to foreign citizens in Brazil who will work exclusively in the preparation, organization, planning and execution of FIFA's 2013 Confederations Cup, FIFA's 2014 World Cup, and the Olympic and Paralympic Games 2016 in Rio de Janeiro. Finally, in the case of Spain, the Royal Decree-Law 16/2012, which stipulates that certain categories of foreign citizens with irregular status within the country's territory have no right to healthcare, this service is being litigated at the Constitutional Court. Several autonomous communities have provided complete healthcare assistance for irregular immigrants. The Constitutional Court, in the midst of a jurisdiction conflict between the central government and the Basque Country community, has declared that the right to healthcare is superior to the potential economic benefit of restricting it; the final sentence is awaited. (Auto 239/2012 from December 12, 2012)

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This study adopts a similar structure for all of these six legal categories. First, some introductory remarks are made. Second, the alternatives to obtain legal status under each category are studied or, in the case of irregular immigrants, the possibility of becoming regularized. Third, the rights of migrants in each category and the conditions necessary to maintain each status are analyzed.

In conclusion, some preliminary recommendations are made based on the comparative study.

Along with other international comparative studies (Bauböck et al.: 2006; Hundleston et al.: 2011), our objective was to identify the main *standards* in each area and legal category. We understand main *standards* to mean those standards of which the purpose is to guarantee equality of rights, responsibilities and opportunities for all residents in a given country.

The study is juridical. The main norms analyzed in each country are the Constitution, the immigration law, the regulation of immigration and the relevant ministerial procedures or regulations. In the case of Brazil, we also analyzed the new Foreigner Statute Project and the Normative Resolutions of the National Immigration Council (CNIg), which are norms that are hierarchically inferior to the law and the decrees regulating the law. However, in the case of Portugal, the new alteration of the Immigration Law 23/2007¹⁸ is not analyzed. All regulations studied can be found in the bibliography, as well as the studies referred herein.

This emphasis on the law favours the continuation of the study beyond the evaluation of immigration policies in each of the three countries. There are, nevertheless, action plans for immigration in the three countries.

In Portugal, Plan II for the integration of immigrants for the years 2010-2013 (approved by the Council of Ministers' Resolution No. 74/2010) has the purpose of continuing the new generation of social policies. The plan comprises of 90 recommendations in several areas, including culture and language, housing, employment and vocational training, among others (II Plano: 2010, 3).

This Plan represents an "instrument for the global guidance of public policies for immigrant integration, cross-sectional to several Ministries," monitored for the evaluation of its execution rate (II Plano: 2010, 4).¹⁹

In Spain, the action plan is titled "*II Plan Estratégico de Ciudadanía e Integración*" (II Strategic Plan of Citizenship and Integration) for the years 2011-2014, while there are also other specific plans in several autonomous communities. The national plan focuses on diverse areas such as reception, employment support, education, health or social services, among others.

In Brazil, the CNIg approved the "National Policy of Immigration and Protection of the Migrant Worker." The purpose of the Policy's text is to "establish principles, guidelines, strategies and actions in regards to the international migrating flows." The text should have already been approved by the Ministries involved in the immigration area, and adopted through Presidential Decree, but this has not yet happened (*Centro de Direitos Humanos e Cidadania do Imigrante* – CDHIC: 2011, 30).

¹⁸ Decree 57/XII. First amendment to Law 23/2007, from July 4, 2007, which approved the legal provision for the entry, permanence, departure and alienation of foreigners in the national territory.

¹⁹ See also the Final Report about the execution of the first PII: http://acidi.gov.pt.s3.amazonaws.com/docs/MAG/Relatorio_Final_PII1_2007_2009.pdf



Therefore, the action plans are important instruments to guide public policies. However, given that they do not grant rights to migrants, or establish the different legal categories in which the non-nationals can be classified, they are excluded from the scope of this study.

Moreover, none of the three countries have signed the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). However, it is important to stress that both the European law and the Mercosur Residence Agreement will be analyzed, as they establish legal precedents that can be applied nationally.

Lastly, this emphasis on the law means that the study evaluates the relevant ministerial orders or regulations. However, administrative practice can sometimes contradict the law for several reasons. This situation may be found in some sections of the study but is not part of our general scope of analysis.

4.2 Irregular immigration

Irregular immigration is a challenge of equal magnitude to Portugal, Spain and Brazil. Although it is hard to establish the root causes of irregular immigration, given its heterogeneous character, it is possible to say that it occurs due to the lack of legal entry mechanisms in the country of destination, combined with the existence of a poorly regulated labour market in certain sectors of the economy, including a significant role of the informal economy. Irregular migrants represent a very heterogeneous category and may include people with student or tourist visas who could not get work authorization, asylum-seekers who were not granted refugee status, family members of residents who do not fulfill the requirements for family reunification, people with expired temporary work visas, etc. Therefore, restrictive responses, such as expulsion from the territory, are inadequate and require additional policies (Baldwin Edwards and Kraler: 2009, 48). This is the reason why several European countries promote regularization processes for immigrants or have stable mechanisms to grant work and residence authorizations. Although irregular immigrants are protected by some fundamental rights derived from human rights legislation at the international, national and regional levels, they are vulnerable to exploitation and abuse in the workplace and their daily lives.

Next, we will refer to two fundamental aspects surrounding migrants in an irregular situation. Firstly, we will see how they can attain regular residence in the country. To do so, we will analyze the ordinary and extraordinary regularization mechanisms in the three countries. By 'extraordinary' we refer to the processes that are initiated only once and have a limited validity. By 'ordinary' we refer to the processes available indefinitely to migrants, as they are included in the legislation. Secondly, we will briefly evaluate the most important rights (health and social services, education and labour rights) of migrants with irregular status in each country. Therefore, this section will discuss the following items: a) extraordinary regularization processes; b) permanent regularization mechanisms; c) expulsion; d) rights; e) conclusions and preliminary recommendations.

a. Extraordinary regularization processes

In **Portugal**, several extraordinary regularization processes have taken place since 1992-93 (Peixoto et al.: 2009):

1. Decree-Law 212/92 – c. 39,000 persons (1992-93)
2. Law 1996 no. 17/96 – c. 35,000 persons
3. Decree-Law 2001 no. 4/2001 – c. 184,000 persons



4. Bilateral Agreement with Brazil²⁰ – 16,173 persons (2003)
5. Regulatory Decree 2004 no. 6/2004²¹ – art. 71

More than 250,000 people regularized their legal situation in Portugal through these mechanisms.

The fourth process mentioned here is of great significance to this study, because it refers to the regularization of Brazilians in Portugal as a result of the “Lula Agreement” (*Acordo Lula*). This agreement was signed as a result of President Lula da Silva’s visit in 2003, which also included other two bilateral agreements.²² The main difference between this agreement and the previous regularization processes is that the process is directed for the first time to a specific group of nationals, Brazilians in this case, and resulted in an international agreement and not a law or decree of universal character (Padilla: 2007, 220).

The agreement was signed on July 11, 2003, ratified on September 19 and first applied on October 20. The requirements for regular residence included a request application for a renewal of stay, the presentation of a work contract, police clearance certificate, and a visit to one of the Portuguese Consulates in Spain, for the expedition of a work visa (Padilla: 2007, 220-21). The Regulatory Decree from 2004 no. 6/2004, Art. 71, aimed to extend to other immigrants the rights granted to Brazilian citizens in 2003.

Spain has also implemented several extraordinary regularization processes since 1985 (Arango and Finotelli: 2009, 83):

1. Immigration Law 1985 – 34,832 persons (1985)
2. Resolution of June 7 – 109,135 persons (1991)²³
3. Royal Decree 155/1996 – 21,382 persons (1996)
4. Organic Law 4/2000 from January 11 – 199,926 persons (2000)
5. Royal Decree 142/2001 from February 16 – 232,674 persons (2001)
6. Royal Decree 2393/2004 from December 30 – 578,375 persons (2005)

More than 1.2 million immigrants regularized their situation in Spain through these mechanisms.

Finally, there have also been several extraordinary regularization processes in **Brazil** since 1981 (CDHIC: 2011):

1. 1981, Law 6964/81 – 39,000 persons
2. 1988, Law 7685/88 – 35,000 persons
3. 1998, Law 9675/98, regulated by Decree 2771 from September 7, 1998 – 40,909 persons
4. 2009, Law 11,961 from July 2 – 41,816 persons

²⁰ Agreement between the Federative Republic of Brazil and the Portuguese Republic, about the Reciprocal Hiring of Nationals, signed on July 11, 2003.

²¹ In theory, this process was not an extraordinary regularization, but a process for granting work visas in the country of destination (this new legal status was called “stay authorization”). In practice, however, it was a regularization process.

²² Agreements relating to the Prevention and Suppression of the Illegal Trafficking of Migrants and the Facilitation of the Movement of Persons.

²³ Resolution of June 7, 1991, from the Sub-secretariat, which publishes the Agreement of the Council of Ministers from June 7, 1991, about the regularization of foreign workers.



In August 2005, Brazil also signed an agreement with Bolivia to regularize citizens from both countries who had migrated to the other, as well as their family members who had entered the country before August 15, 2005. The agreement was initially valid for 180 days, but it was extended for another 360 days. Approximately 20,000 Bolivians benefitted from the agreement (Almeida: 2009, 24).

More than 150,000 people regularized their situation through these mechanisms.

An important difference between the processes in Brazil, Spain and Portugal is that the authorization can become permanent in Brazil after a period of temporary residence of two years, while in Spain and Portugal, the authorization usually lasts for one year, and the status of permanent residence can only be granted after five years of residence. The Brazilian Ministry of Justice amended Ordinance no. 1700, from July 28, 2011, which regulated the conversion of temporary residence into permanent residence.

b. Ordinary regularization mechanisms

In **Portugal**, the current Immigration Law 23/2007 includes ordinary regularization mechanisms. The first of these mechanisms is established in Article 88 of Law 23/2007. Normally, in order to be granted a residence authorization, the applicant must have a valid residence visa. However, Article 88 establishes that this requirement may be waived exceptionally to grant residence authorization for the exercise of a professional subordinate activity²⁴ (see section 2), provided that the foreign citizen fulfills the following requirements:

- Holds an employment contract or a work relationship proven by a union, by an association member of the Advisory Council or by the General Work Inspection;
- Has entered the national territory legally and continued the stay legally. Generally, irregular immigrants do not satisfy this condition. However, if they pay a fine, they can overcome this obstacle;
- Is registered, and in regular situation, with the social security system.

The decision on an application through the official exceptional procedure for the concession of a residence authorization is taken after a personal interview with the applicant, which implies a level of subjectivity, (Art. 54 (3) Regulatory Decree 84/2007)²⁵, taking into consideration the uniqueness of each migrant's situation, namely:

- Reasons of *force majeure*;
- Justifiable personal or professional reasons (Art. 54 Regulatory Decree 84/2007).

Data on the number of regularizations are not easily found, but in 2010, around 50,000 people had already been regularized.²⁶

Other regularization mechanisms refer to specific groups of people, such as victims of human trafficking (Art. 109 of Law 23/2007, where several limitations are imposed upon the concession of residence authorization for a period of one year subject to renewal), certain minors, citizens who do not generally need a visa for the concession of residence authorization (Art. 122 of Law 23/2007) and people under the special provision of Art. 123 of

²⁴ Art. 89.2 of Law 23/2007 has a similar exception for the concession of a residence authorization, for the exercise of an independent professional activity.

²⁵ This point was introduced in the regulation of the Law with the idea of creating a control mechanism that would prevent the "calling effect" of this possibility of regularization.

²⁶ Data obtained from an article from the newspaper *Público*: <http://www.publico.pt/Sociedade/184-mil-estrangeiros-legalizados-em-tres-anos-em-portugal-ao-abrigo-da-nova-lei-1449300>.



Law 23/2007, which establishes that, upon the proposal of the General Director of the SEF or through an initiative of the Minister of Internal Affairs, a temporary residence authorization may be exceptionally granted to foreign citizens who do not fulfill the legal requirements:

- For reasons of national interest;
- For humanitarian reasons;
- For public interest reasons resulting from the exercise of a relevant activity within the sports, scientific, cultural, economic or social areas.

In **Spain**, the current Immigration Law also includes ordinary regularization mechanisms. The first of these mechanisms is paramount, established by Art. 124, Regulation 557/2011, called "*arraigo*" (which may be translated as "rootedness"). The importance of this mechanism relates to the great number of people it benefits. Data from March 31, 2012 shows that Spain had 73,679 people with temporary residence visas by *arraigo*. Of this group, 3,815 were Brazilian citizens.

There are three different types of *arraigo* (Art. 124, Regulation 557/2011):

- **Labour *arraigo***. The individual must prove continuous residence in Spain for a period of two years, have no criminal record in Spain or in the country of origin or other countries where the individual has lived in the last five years, and show the existence of an employment commitment, with duration of at least six months. This last requirement is highly complicated to prove, because it requires a legal or administrative resolution that proves the violation of the employer who hired an irregular migrant. Therefore, this form of *arraigo* is less frequently used.
- **Social *arraigo***. The individual must prove continuous residence for a period of three years, have no criminal record in Spain or in the country of origin or other countries where the individual has lived for the past five years, have an employment contract signed by an employer for a period of at least one year,²⁷ and have family ties with other foreign residents or present a declaration of social integration issued by the autonomous community where the person lives.²⁸ This declaration of integration may be obtained, normally, after the conclusion of some language and Spanish culture courses. There are a few exceptions with regard to the requirement of an employment contract if the applicant has sufficient financial resources. Thus, the difference between labour *arraigo* and social *arraigo* is that, in the latter case, the individual is not working yet but will be if the authorization is granted. Consequently, the contract is the guarantee of employment, if the authorization is granted.
- **Family *arraigo***. This is applicable if the individual is a parent to a minor of Spanish nationality under his/her responsibility and sharing a family life or, alternatively, when he/she is exercising his/her parental rights. It is also applicable if the individual's father or mother was originally Spanish (*Instrucción DGI/10/2008, sobre las autorizaciones de residencia temporal por circunstancias excepcionales, cuando se trate de hijos de padre o madre que hubieran sido originariamente españoles*).

Other regularization mechanisms refer to specific groups of people to whom the authorization is granted for humanitarian reasons (Art. 126, Regulation 557/2011, that includes the

²⁷ In the agrarian sector, two consecutive contracts of six months each can be accepted, as well as several employers in the same sector if the working week consists of 30 hours.

²⁸ See more information about this in the Instruction DGI/SGRJ/3/2011 available here: <http://extranjeros.empleo.gob.es/es/NormativaJurisprudencia/Nacional/RegimenExtranjeria/InstruccionesDGI/documentos/2011/INSTRUCCION-DGI-SGRJ-3-20110001.pdf>

victims of certain crimes which were aggravated by racism, anti-Semitism or other forms of discrimination; those who suffer from a severe health condition that cannot be appropriately treated in the country of origin, or those who cannot remain in their country of origin because their lives are endangered); in exceptional circumstances of collaboration with public authorities; reasons of national security or public interest (Art. 127, Regulation 557/2011); women who were victims of gender-related violence (Arts. 131-134, Regulation 557/2011) or, finally, in collaboration against human trafficking networks (Arts. 135, Regulation 557/2011) or victims of human trafficking (Arts. 140-146, Regulation 557/2011).

In **Brazil**, the current Immigration Law does not include ordinary regularization mechanisms. On the contrary, Art. 38 establishes that “the legalization of the irregular or clandestine immigrant is prohibited.” However, there is a mechanism that has been used to regularize certain migrants based on Normative Resolution 27, from November 25, 1998. This Resolution regulates the evaluation of special situations and cases omitted by the National Immigration Council, based on an individual analysis (Art. 1, RN 27). Special situations are those which, although not clearly defined by the CNIg’s Resolutions, have certain elements that allow them to be considered satisfactory for the concession of a visa or permanent residence status. Omitted cases are those which are not foreseen in any Council Resolution. This resolution was used in the last year to regularize the status of 5,000 Haitians.²⁹

In addition to this case, the nationals from the Mercosur signatory states and associated members may become regular and obtain a two year temporary residence at any time (see the section on Mercosur citizens). Lastly, those who have children or a spouse of Brazilian nationality may request family reunification and regularize their migration status.

On the other hand, the new Bill 5,655/2009 includes, in Art. 40, the possibility of granting a residence authorization to foreigners with irregular status, provided that they comply with the requirements for one of the visas listed in Arts. 21-34. However, in this case, the person must pay a fine (Art. 54, Bill 5,655/2009). The possibility of regularization is very important, if the person fulfills the requirements, and it needs a clearer regulation to reach out to more migrants. Finally, Art. 42 of Bill 5,655/2009 allows the concession of temporary residence of up to one year for foreigner victims of human trafficking, regardless of the migration status. This is also regulated by Normative Resolution 93 from December 21, 2010.

c. Expulsion

In **Portugal**, Immigration Law 23/2007 establishes in Art. 134 that “the foreign citizen who enters or stays illegally in Portuguese territory” will be deported. However, Art. 135 of Law 23/2007 states that the following persons cannot be deported from the country:

- Individuals who were born in Portuguese territory and reside there.
- Those who have effective custody of their minor children of Portuguese nationality who reside in Portugal.
- Nationals from a third country, residing in Portuguese territory, having minor children over whom they have parental rights, and to whom they provide support and education.
- Those who have lived in Portugal since an age younger than 10 years, and are currently residing in Portugal.

²⁹ The situation of immigrants from Haiti in Brazil is now regulated by Normative Resolution 97 from January 12, 2012, which foresees the concession of a visa for five years for humanitarian reasons to 1200 Haitians per year. This visa may be validated after five years after the proof of employment of the Haitian national.



The procedure for citizen expulsion exceeds the scope of analysis of the present study.³⁰ However, it is important to point out that, as a general rule, a period for voluntary departure must be offered to the person (in the case of Portugal, between ten and twenty days, Art. 138, Law 23/2007). In cases where the person has not voluntarily left the territory or when the voluntary departure period is not granted (for example, when there is a high risk of escape), the government can impose coercive measures that may include detention as a final resort, before the expulsion from the territory. This detention may last only for a maximum period of 60 days and cannot be extended (Art. 146 (3), Law 23/2007). Besides, Art. 192 of Law 23/2007 establishes fines from €80 to €700, to be paid by the foreign citizen who remained in Portuguese territory for a period longer than was authorized. The deported citizen is prohibited from entering the national territory for a period of at least five years (Art. 144, Law 23/2007).

In **Spain**, the Immigration Law establishes that the foreign citizen who enters or remains illegally within the Spanish territory may be deported or mandated to pay a fine (Art. 57, Law 2/2009). However, Art. 57 (5) Law 2/2009 points out that the following persons cannot be expelled from the country:

- Those born in the Spanish territory who have legally resided there for the last five years;
- Those who have been Spanish originally and have lost Spanish nationality;
- Those who have benefitted from a permanent disability support, as a result of an accident which occurred in Spain. Also, those who had a contributory unemployment insurance or an economic assistance of public character for social or labour integration purposes;
- The spouses of the persons abovementioned who have resided legally in Spain for more than two years, or children with disabilities, cannot be expelled either.

The procedure for the deportation of a citizen exceeds the scope of analysis of the present study. However, it is important to point out that a period for voluntary departure must be offered to the person, as a general rule (in the case of Spain, between seven and thirty days, Art. 63 bis, Law 2/2009). In cases where the person has not voluntarily left the territory or when the voluntary departure period is not granted (for example, when there is a high risk of escape), the government can impose coercive measures that may include detention as a final resort, before expulsion from the territory. This detention may only last for a maximum period of 60 days (Art. 62, Law 2/2009).

In **Brazil**, the legal consequence of irregular migration status is also deportation (Arts. 57-64, Law 6815). The conduct does not constitute a crime, but an administrative violation. This is maintained in the new Bill 5,655/2009, in progress at the Brazilian Parliament, about the new migration legal landmark (New Migration Law) (Art. 149). This measure may be applied to those people who entered the country irregularly, who remained in the country for a period longer than authorized, or who did not respect the conditions of a work authorization, such as in the cases where it does not allow a change of employment. The person may return to the country if he/she pays the expulsion expenses charged by Brazil, such as a fine (Art. 64, Law 6815). The new Bill 5,655/2009 introduces the voluntary departure of the territory within a period to be fixed by the Regulation (Art. 104 Bill).

³⁰ The expulsion system of the European Union is known as the Return Directive. Directive 2008/115/EC of the European Parliament and the Council from December 16, 2008, relates to the norms and procedures common to the member states for the return of third country nationals in irregular situation.

Art. 75 of Law 6815 stipulates that the deportation will not be applied if the person has a Brazilian spouse to whom he/she is still married, or a Brazilian child under his/her custody who is financially dependent.

Finally, Art. 61 of Law 6815 establishes that, when deportation is not effective, the person may be arrested by decree of the Ministry of Justice for a period of 60 days. Whenever it is impossible to determine the identity of the deportee, or to obtain the correct travel documents to carry out the departure process within 60 days, the arrest may be extended for the same time period. When this term is over, the person will be released. However, Art. 5 of the Constitution only admits the arrest in cases of flagrant misdemeanors or a judge's mandate. Therefore, what happens in practice is the "receipt of a violation notice and a notification by the Department of Federal Police regarding their irregular migration status, together with the mandate to leave the country in eight days" (CDHIC: 2011, 46).

The new Bill 5,655/2009 authorizes the precautionary arrest of the person to be deported for a period of up to 60 days, which may be extended in case of extreme and proven necessity (Art. 116 of the Bill). This is different in Spain and Portugal, where the maximum period of arrest is 60 days, without the possibility of extension, and the person cannot be placed in prison, but has to stay in a detention centre for irregular immigrants.

d. Rights

Regarding the rights of immigrants in irregular situations, we will refer to access to healthcare and social assistance, education and labour-related rights.

i. Access to healthcare and social assistance:

In **Portugal**, all persons, regardless of status, may benefit from social assistance (FRA: 2011, 67-69). In addition, migrants who live in Portugal for more than 90 days, regardless of the immigration status, have the right of access to healthcare (Dispatch no. 25 360/2001, item 4, Ministry of Health). Persons under 14 years old always have access to healthcare. Pregnant women have the same free and unconditional access to healthcare as nationals (FRA: 2011, 81). This was all clarified by the Information Circular no. 12/DQS/DMD from 2009, issued by the General Health Administration, about the access of immigrants to the National Health Service. The Circular establishes that irregular immigrants have access to the National Health Service, upon the presentation of a document from the *Junta de Freguesia* of his/her area of residence, certifying that the person has been residing in Portugal for more than 90 days. However, if the immigrant has no document certifying that he/she lives in Portugal for more than 90 days, the healthcare units will nevertheless provide the health services needed by the immigrant. Immigrants with this status have access to healthcare under the same terms as the general population, in the following situations:

- Urgent and vital healthcare;
- Communicable diseases that represent a danger or threat to public health;
- Services related to maternity and reproductive health (namely access to family planning appointments, voluntary pregnancy termination, monitoring and supervision of women during pregnancy, birth, the postpartum period, and neonatal care);
- Healthcare for minors residing in Portugal (...);
- Vaccination, according to the current National Vaccination Programme;



- Foreign citizens in Family Reunification situation, if a member of the family has duly verified payments for social security;
- Citizens experiencing social exclusion or economic need, duly proven by the social security services.

Finally, the healthcare units may charge for the health services provided, except in those situations mentioned in the previous item, but analyzing case by case, considering the social and economic situation of each person.

In **Spain**, the right to healthcare is included in Art. 12 of Law 2/2009. As of the time of publication of this study, the only requirement to have access to healthcare is a registration with the city hall (*empadronado*).³¹ However, since August 31, 2012 (Royal Decree-Law 16/2012), irregular foreigners within the territory have no access to healthcare, except the following categories:

- every person has the right to emergency care until released by the doctors, regardless of their being regular or not;
- persons under 18 years old;
- foreigners who are pregnant, including postpartum care.

However, several autonomous communities have announced the continuity of complete healthcare to all irregular immigrants. Regarding social services (Art. 14, Law 2/2009) (non-contributive benefits), on the other hand, irregular migrants have only the right to basic social benefits. This is also the case of foreigners under 18 years old who live in Spain, because they also enjoy the same benefits regardless of their administrative situation.

Regarding the rights of irregular immigrants in **Brazil**, the human rights guaranteed by the Constitution of 1998 are also applicable to foreigners in irregular situations (Sbalqueiro: 2009, 469). In Brazil, foreigners in irregular situations within the territory have the right to public health service (Art. 196, Brazilian Constitution and Law 8.080/90, Healthcare Organic Law (LOS) (CDHIC: 2011, 50). Moreover, emergency care is guaranteed to all (regular or not), but medical visits and more complex procedures are not accessible to irregular immigrants, as they do not possess a health card (SUS). This right is extended in any case to all people (regardless of immigration status) in the new Bill (Art. 5, single paragraph).

ii. Access to education

In **Portugal**, minors in irregular situation have the right to access education (Art. 122, Law 23/2007).

In **Spain**, the right to education is included in the Art. 9 of the Immigration Law 2/2009. For persons under 16 years old, access to education is not only a right, but a duty. Irregular immigrants also have the right to education (Constitutional Court Resolution (STC) 236/2007). Persons over 18 years old have no right to education, but this is regulated by the Education Law. In addition, foreigners have the right to the public scholarship programme under the same conditions as Spanish citizens, with no distinction between regular or irregular immigrants.

³¹ In order to become "*empadronado*" (registered in the city), one needs a passport and a proof of residence in the city (for example, a rental contract).

In **Brazil**, the right to education is also applicable to irregular immigrants and it originates from the Constitution (Art. 206, I), the Law of Guidelines and Bases (LDB, Art. 3) and the Statute of Children and Adolescents (Art. 53). Given the fact that the current law is not very clear about this right, the new Bill 5.655/2009 clarifies in Art. 5 the duty to guarantee access to education to all with no restrictions (CDHIC: 2011, 51-52).

iii. Workers' rights

In **Portugal**, the irregular migration situation does not prevent the exercise of rights resulting from the employment relationship, particularly the right to receive payment for the work already performed (FRA: 2011, 48).³²

In **Spain**, the right to employment and social security (contributive benefits) are included in Art. 10 of Law 2/2009. Irregular immigrants have no right to employment. However, irregular immigrants enjoy rights derived from the employment contract (Art. 36.3, Law 2/2009): safety and health in the workplace, right to receive a salary, right to promotion and professional training, and the respect of other labour conditions, such as working hours, authorizations, suspensions, etc. (Donaire Villa: 2012, 113-14). Immigrants with regular status also have the right to the social security system (contributive benefits), especially benefits through employment. However, this right is not available to the irregular immigrants, even when integrated with other situations derived from International Covenants (Art. 36.5, Law 2/2009).

Lastly, in Spain, irregular migrants also enjoy the freedom of reunion and manifestation (Art. 7, Law 2/2009), freedom of association (Art. 8, Law 2/2009), right to participate in labour unions and right to strike (Art. 11, Law 2/2009),³³ right to free legal assistance (Art. 22, Law 2/2009) and the right to not be discriminated in his/her right to free legal assistance (Art. 23, Law 2/2009).

In **Brazil**, according to Sbalqueiro's interpretation of the Constitution (2009, 470), "the fact that the immigrant is working informally may deprive him from the right to employment... but it cannot deprive him of the rights resulting from the work performed..." However, there is no legal provision in the legislation in this sense. Sbalqueiro also mentions the jurisprudence about the theme (582-583). This is different in the Bill 5.655/2009, which extends the benefits resulting from the fulfilment of legal and contractual obligations regarding the employment relationship to irregular immigrants (Art. 5, single paragraph).

e. Conclusions

Based on the previous analysis, several important conclusions can be drawn:

- First, irregular immigration is a phenomenon with many causes. The irregular foreign population in any country at a given time is very heterogeneous and may include persons with a student or tourist visa who did not receive work authorization, asylum-seekers to whom refugee status was not granted, family members of residents in the country of destination who do not fulfill the requirements for family reunification, people with temporary work visas not renewed, etc.;
- Therefore, irregular immigration demands policies of different natures and not only restrictive policies. Among these policies, extraordinary regularization processes and ordinary regularization mechanisms are essential;

³² We can also add that the irregular immigrant can register and get discounts for social security. This is one conditions required, by the way, for regularization.

³³ These rights were recognized after two Resolutions from of the Constitutional Court: STC 236/2007 and 259/2007.



- Spain, Portugal and Brazil have conducted several extraordinary regularization processes. Spain has regularized more than 1.2 million people, Portugal more than 250,000 and Brazil, more than 150,000. Spanish and Portuguese citizens have benefitted from these processes in Brazil, as well as Brazilians in Portugal and Spain;
- Besides the extraordinary regularization processes, the ordinary regularization mechanisms are very important. Among these, the *arraigo* system in Spain is notable, as well as the ordinary Portuguese mechanism which has allowed the regularization of several thousand people. These ordinary mechanisms are very important even if the administration has a certain level of discretion when granting residence. Their importance may be measured by the number of people benefitted. Other regularization mechanisms are equally important for specific cases of immigration for family or humanitarian purposes, or victims of human trafficking. In Spain, the recent possibility of granting residence to victims of family violence also constitutes a good practice;
- Regarding the regularization process, deportation should only be a measure of last resort. If rendered necessary, it must respect the rights of the person. In this sense, there are certain essential elements such as voluntary departure, detention as a measure of last resort (and only for the minimum time necessary) and detention only in special centres for immigrants, never in prisons;
- Migrants in an irregular situation have rights. Among these rights, three are especially relevant: the right to healthcare, education and rights originating from the fulfilment of legal obligations related to the employment relationship. The new measure from the Spanish government limiting the access to healthcare to certain categories of irregular immigrants is deplorable. In fact, there are several autonomous communities that have expressed an intention to continue serving all immigrants, and the government measure has become the object of appeals of unconstitutionality at the Constitutional Court. The Court's sentence is expected to still take a few years to be announced.

4.3 Temporary residence

In this section, we will discuss the temporary residence and the rights of the person during the residence period. For the purpose of relevance, we will refer particularly to the persons who enter the country temporarily to work with an authorization of one or more years, and not to those who enter to study, or participate in unpaid internships, volunteer work or seasonal work. Among the migrants who enter to work for one year or more, we will analyze especially those who enter to perform a professional activity under the direction of another person. We will also look at entrepreneurs and, lastly, at those who perform research or highly qualified activities.

It is important to clarify that in the case of Spain and Portugal, all of these dispositions do not apply to citizens of the EU, the EEA, or Switzerland, nor to members of their families. The special provision for these persons will be analyzed in more detail in the fifth section.

This section will discuss the following items: a) introductory aspects; b) conditions for acquiring temporary residence for the performance of a professional activity under the direction of another person, self-employed (entrepreneurs), and research or highly qualified



activity; c) renewal or loss of temporary residence; d) rights; e) conclusions and preliminary recommendations.

a. Introductory aspects

To be able to enter any of these three countries, foreign citizens must carry a valid travel document (for example, a passport), and a valid visa (Arts. 9 and 10, Law 23/2007 in Portugal; Art. 25 bis, Law 2/2009 in Spain, law 6.815 in Brazil).³⁴

There are several types of visas in each one of these three countries.³⁵ With respect to Portugal and Spain, we will solely refer to the visa for residence authorization. In the case of Brazil, we will only refer to the temporary visa.

It is important to highlight that there are general conditions for the concession of a visa, as well as circumstances in which the visa can be cancelled in each of the three countries (in Portugal, Art. 52 of Law 23/2007; in Spain Art. 11, Regulation 557/2011; in Brazil Art. 7, Law 6.815 and Art. 5, Decree 86.715, which regulates Law 6.815) (see also Art. 66 of the Bill).

In **Portugal**, the purpose of the visa for residence authorization (resident visa) is to allow its holder to enter the country to request a residence authorization. The person may remain in Portuguese territory for four months (Art. 58, Law 23/2007). The visa to obtain a residence authorization may be used to request different types of residence:

- Residence visa for the performance of subordinate professional activity (Art. 59, Law 23/2007);
- Residence visa for the performance of independent professional activity, or for immigrants who are entrepreneurs (Art. 60, Law 23/2007);
- Residence visa for research or highly qualified activity (Art. 61, Law 23/2007);
- Residence visa for study, student exchange, professional internship or volunteer work (Art. 62, Law 23/2007);
- Residence visa within the scope of university students' mobility (Art. 63, Law 23/2007);
- Residence visa for family reunification purposes (Art. 64, Law 23/2007);
- Special visa for humanitarian purposes, or national interest purposes, for foreign citizens who do not fulfill the legal requirements (Art. 68, Law 23/2007).

Given its importance, we will particularly analyze the first category, and make a brief reference to the second and third. The fourth and fifth categories refer specifically to students, and are not the object of this analysis. The category referring to family reunification will be analyzed in the third section.

In **Spain**, the purpose of the visa for residence authorization is to allow its holder to enter the country in order to request a residence authorization. The visa to obtain residence authorization may be used to request different types of residence:

³⁴ Nationals from some countries, including Brazil, do not need a visa to enter the EU. Reciprocally, Portuguese and Spanish citizens do not need visas to enter Brazil.

³⁵ In Portugal, transit, itinerary, short duration, temporary stay and authorization for resident visas. In Spain, transit, stay, and authorization for residence. In Brazil, transit, tourist, temporary, permanent, courtesy, official and diplomatic visas (Art. 4, Law 6.815). The visas listed in the new Bill are virtually the same (Art. 15 Bill).



- Residence visa to live in the country without performing a professional activity or job;
- Residence and work visa;
- Residence and seasonal work visa;
- Visa for study and visa for research;
- Residence visa within the scope of university students' mobility (Art. 63, Law 2/2009).

Given its importance, we will analyze particularly the visa for residence and work.

In **Brazil**, the foreigner may reside with the visa, because the Brazilian legislation does not require the concession of a residence authorization in addition to the visa (Sbalqueiro: 2009, 506). The concession of visas is carried out by the consular authorities associated to the Ministry of Foreign Relations. The visa enables the citizen of a third country to obtain the National Foreigner Registration, which is the identification document for foreigners. In order to obtain the temporary visa, the foreigner has to fit one of the following modalities (Art. 13, Law 6815):

- foreigner on a trip for cultural or study purposes (item I);
- on a business trip (item II);
- artist or sportsperson (item III);
- student (item IV);
- scientist, professor, technical expert or professional (item V);
- foreign newspaper, magazine, radio, television or news agency correspondent (item VI);
- minister of religious confession or member of an institute of consecrated life , and of a congregation of religious order (item VII).

Among these modalities, only items III and V are considered work visas. We will refer only to item V. For the procurement of a work visa, a legal entity in Brazil must first of all request a work authorization at the Immigration General Coordination of the Ministry of Labour and Employment. There are three exceptions to this rule, referring particularly to the family members of Brazilian citizens who have the right to work, nationals from the Mercosur and associated countries, and citizens who have benefitted from a regularization process.

Therefore, our interest will be to analyze what the possibilities of residence are in each one of these three countries, first, for the performance of subordinate professional activity; second, for the performance of independent professional activity for immigrants who are entrepreneurs; and third, for research or highly qualified activities. We will not refer to other visa categories or residence authorizations, such as students, seasonal work, etc.

b. Conditions for the acquisition of temporary residence for the performance of subordinate, independent (entrepreneurs), research or highly qualified professional activities.

i. Temporary residence for the performance of subordinate professional activity

In **Portugal**, the concession of a residence visa for the performance of subordinate professional activity depends on the existence of job opportunities not fulfilled by Portuguese nationals, citizens of the EU, the EEA, or Switzerland (see section 4), or by nationals of third



countries who have already received legal residence authorization in Portugal (Art. 59.1, Law 23/2007). However, the principle that regulates the admission of nationals from third countries for the performance of subordinate professional activity is the respect for the situation of the national labour market.

There are two systems to check the availability of job opportunities:

1. Every year, the Council of Ministers approves a resolution that defines a global quota indicative of job opportunities. The Employment and Professional Training Institute (*Instituto do Emprego e da Formação Profissional – IEFP*), as well as the respective departments in each Autonomous Region, maintain and release an updated permanent information system accessible to the public, based on job opportunities located on the internet (Art. 59.4 Law 23/2007).³⁶ Besides, the candidates must prove the adequate conditions to get a job within the national territory: the possession of an employment contract, or the individual manifestation of interest from an employing entity. Moreover, the employing entity that wishes to hire a citizen from a third country must solicit, at the IEFP, a supporting declaration stating that the job offer is not only covered by the current global quota, but also that it has not been fulfilled by the preferred categories of workers within a period of 30 days (Art. 29, Regulation 84/2007).
2. The second system is exceptional (Art. 59.7, Law 23/2007) and allows, regardless of the quota, the issuance of a visa for a person with an employment contract, provided that the person proves that the job offer was not fulfilled by the preferred workers (nationals of Portugal, the EU, the EEA and Switzerland, and foreign residents). In order to demonstrate that the job offer was not fulfilled, the employing entity must request, at the IEFP (or qualified entity from the Autonomous Regions), a declaration attesting this fact, issued 30 days after the offer presentation (Art. 29.3, Regulation 84/2007).

In **Spain**, the concession of a residence and work authorization for the performance of subordinate professional activity depends upon the existence of job opportunities that were not fulfilled by Spanish nationals, citizens of the EU, EEA and Switzerland (see section 4) or third country nationals who already have legal residence in Spain (Art. 38, Law 2/2009). However, the principle that regulates the admission of third country nationals for the performance of subordinate professional activity is, as in Portugal, the respect for the situation of the national labour market.

There are two systems available for the verification of job opportunities:

1. The State Employment Public Service establishes the national employment situation (Art. 38.2, Law 2/2009). With this information, a catalogue is approved every three months listing positions which are difficult to cover (Art. 39, Law 2/2009 and 65, Regulation 557/2011).³⁷ The catalogue is valid from the first to the last work day of the trimester following its publication. The presence of a job in the catalogue in the applicable geographic zone means that the employer has the possibility of processing the residence and work authorization for the foreign candidate. In case of a position that is excluded from the catalogue, the employer shall present the job offer at the employment office and the following item 2 applies.

³⁶ This is the URL: <http://www.netemprego.imigrante.gov.pt/IEFP/pesquisas/pesqOfertasInt.do?estrangeiros=true&toe=N&lang=PT>

³⁷ The catalogue has been substantially reduced due to the economic crisis.



2. The second system allows the issuance of the authorization regardless of the catalogue, provided that the employer proves that the job offer was not fulfilled by the preferred workers (citizens of Spain, the EU, the EEA, and Switzerland, and foreign residents) (Art. 38.2, Law 2/2009). In order to demonstrate that the job offer was not fulfilled, the applicant must wait until 25 days after the presentation of the offer (Art. 65.2, Regulation 557/2011).³⁸

Another procedure Spain has followed in the last few years is the "*Gestión Colectiva de contrataciones en Origen*" or "contingent" (Art. 39, Law 2/2009 and Arts. 166-177, Regulation 557/2011). This is a procedure that permits the hiring of a person in his/her country of origin, through a selection process that is performed based on generic offers (for example, waiters or chefs for restaurants, doctors, etc.). To do so, the government approves in the beginning of every year a number of vacancies to be covered in different types of jobs. However, given the current economic crisis in Spain, the government did not open any permanent vacancy for 2012.³⁹

There are several categories of persons who may obtain an authorization for residence and work without considering the national employment situation (Art. 40, Law 2/2009). Besides, there are different categories of persons that do not need work authorization, such as foreign visiting professors or professors hired by Spanish universities, certain scientists and technical experts, foreign news correspondents, etc. (Art. 41, Law 2/2009).

The initial residence and work authorization (first year) will be usually limited to a certain territory (autonomous community) and employment position (Art. 38.5, Law 2/2009). Nevertheless, following the first renewal (after one year), the authorizations have no geographical or occupational limitations (Art. 38.7, Law 2/2009 and 72, Regulation 557/2011).

In **Brazil**, the temporary visa for scientists, professors, technical experts or professionals (item V) has been regulated by several normative resolutions of the CNIg. This visa always needs an authorization prior to the employment contract (Art. 15, Law 6815), processed at the General Coordination of the Ministry of Labour. The resolutions are the following:

- Normative Resolution 01, from November 4, 1997: foreign professors and researchers;
- Normative Resolution 35, from September 28, 1999: foreign citizens serving the Brazilian government;
- Normative Resolution 87 from September 15, 2010: the concession of visas to foreigners, associated with a foreign company, for professional training at the Brazilian branch, affiliate or headquarter of the same economic group;
- Normative Resolution 88 from September 15, 2010: the concession of visas to foreigners who come to Brazil for internships;
- Normative Resolution 61, from December 8, 2004: visit of a foreign national for the provision of services involving technical assistance or technological transfer;
- Normative Resolution 71, from September 5, 2006: foreign employee on board a foreign tourist vessel;

³⁸ However, in order to hire a national of Chile or Peru, the candidate does not need to prove the national employment situation because Spain has agreements in place with these two countries.

³⁹ Order ESS/1/2012, which entered into force on the same day as its publication in the BOE and will be valid until December 31, 2012, by which the collective administration of the non-communitarian hiring of foreign nationals is regulated for 2012.

- Normative Resolution 72, from October 10, 2006: foreign national employed on board a foreign vessel or platform;
- Normative Resolution 76, from May 3, 2007: foreign professional athlete;
- Normative Resolution 79, from August 12, 2008: visit of foreign national for business training and business cultural assimilation, and assimilation of management methodology;
- Normative Resolution 80, from October 16, 2008: visit of foreign professional with employment contract in Brazil;
- Normative Resolution 81, from October 16, 2008: foreigner employed on board a foreign fishing vessel.

Normative Resolution 74, from February 9, 2007, is also significant, as it concerns the procedure for the work authorization for foreigners. All these visas are subject to the approval of the Ministry of Labour, upon the concession of a work authorization. It is difficult for workers with no qualification to obtain a visa because the legislation privileges qualified professionals (CDHIC: 2011, 36). This is also mentioned in the Art. 4 of the Bill: “the purpose of the immigration policy will be, primarily, the admission of specialized labour.”

In order to obtain one of these visas, it is necessary to verify whether the potential job fits one of the previous categories. When the correct resolution is known, Normative Resolution 74 must be used for this procedure. Temporary visas are granted for a specific job. Thus, if the person loses the job, he/she must leave the country or request a new work authorization for a new job, for which an expressed authorization of the Ministry of Justice, approved by the Ministry of Labour, must be issued (Art. 100, Law 6815/80).

It is also important to further analyze Normative Resolution 80 from October 16, 2008, as it concerns the concession of work authorizations for the obtainment of temporary visas for foreigners with employment ties in Brazil. This rule has been added by Resolution no. 96 from November 23, 2011.⁴⁰

Its first article establishes that the “Ministry of Labour and Employment may grant a work authorization for the obtainment of temporary visa (...) to the foreigner who comes to Brazil with an employment relationship with an employer entity established in Brazil, respecting the interest of the Brazilian worker. Moreover, the **Labour Laws Consolidation** document (*Consolidação das Leis do Trabalho – CLT*), the main Brazilian legal norm referring to workers’ rights and the labour procedural law, stipulates in its Chapter II, referring to the nationalization of work and the proportion of Brazilian workers, that the companies which utilize public services or perform industrial or commercial activities are mandated to keep, within their workforce, two-thirds of Brazilian employees (Arts. 352 and 354, CLT). There are a few exceptions to this rule, as for example, “the employees who perform specialized technical jobs, provided that there is a shortage of national workers, by decision of the Ministry of Labour, Industry and Commerce” (Art. 357, CLT).

⁴⁰ This Resolution introduces a new Article 5, which establishes the following: “A single renewal of the permanence period may be granted to the foreigner bearing a temporary visa, discussed in Article 1, for up to two years.”

§ 1: “In case the renewal of the permanence period implies the permanence of the foreigner in Brazil for a period longer than two years, counted from the arrival of the foreigner in the country, the request must be complemented with an employment contract for indeterminate period [...]”



The only persons who may have the same status as Brazilian citizens are “the foreigners who are residing in the country for more than ten years and have Brazilian spouse or children, and the Portuguese citizens” (Art. 353 CLT).⁴¹

In addition, the requesting entity that wishes to hire a foreigner must prove his/her qualification and professional experience demonstrating the fulfilment of one of the following requirements (Art. 2, single paragraph, NR 80):

- “minimum formal education of nine years and two years of experience in a position that does not require university level; or
- experience of one year in the performance of a university level profession, counted from the conclusion of the university course that prepared the person for this job; or
- conclusion of a graduate studies programme, with at least 360 hours, or Master’s degree or superior level, compatible with the activity being performed; or
- experience of three years performing artistic or cultural profession which does not depend on school education.”⁴²

Once the person is admitted, he/she has to register with the Ministry of Justice within 30 days after arrival (Art. 30, Law 6815), and will receive an identification document (Art. 33, Law 6815).

This visa (item V) may become permanent if certain conditions are fulfilled (Art. 37, Law 6815 and Art. 69, Regulation 86.715).

In the new Bill 5.655/2009, Art. 21 refers to the temporary visa. The third point of the article regulates the work visa, with or without an employment or functional relationship in Brazil. This may embrace different activities, among others:

- “professional training;
- technical assistance or technological transfer;
- research;
- maritime work or on-board technician;
- volunteer work;
- administrator, manager, director or executive of society, group or economic conglomerate, foundation or not-for-profit entity; and
- professor, technical expert or scientist approved by public examination in public educational or technological and scientific research.”

Article 26 regulates the work visa with no employment relationship that may be granted to the foreigner who comes to Brazil to perform professional activity for a period up to one year, extendable for the same period, if the need for a foreign worker in Brazil is proven. However, this visa does not allow an employment relationship, the practice of an activity paid by a Brazilian source and its transformation into a permanent visa, with no prejudice of the concession of another visa or residence authorization.

⁴¹ There are several notions, however, considering this rule unconstitutional. However, these notions deal with specific cases, and there is no normative notion within the scope of the Public Administration or the declaration of unconstitutionality of the specific article of the CLT by the Supreme Court. The prevailing understanding is that this article was not received by the Federal Constitution of 1988, especially for conflicting with the content of Article 5, caput, which renders equal, in rights and duties, Brazilians and foreign residents. In any case, this may be modified in order to guarantee the equality of treatment of non-nationals in the country.

⁴² This rule does not apply “when the request for a work authorization is for a national of a South American country” (Art. 3, NR 80) at least until December 31, 2012 (see Normative Resolution 89, from November 10, 2010).



Article 27 regulates the work visa with an employment relationship that will be granted for up to two years and will depend on the previous authorization of the Ministry of Labour and Employment.

This visa will only allow one renewal and may be transformed into a permanent visa by the Ministry of Justice, after the need for a foreign worker in the country is justified, and the previous manifestation of the Ministry of Labour and Employment is issued (Art. 28, Bill).

Finally, articles 29 and 30 establish other limitations, such as the association with the contract terms for the foreigner with employment relationship hired under the temporary worker category (Art. 29) or the impossibility of the renewal of a work visa if it “implies a situation that characterizes inappropriate replacement of the national workforce” (Art. 30).

ii. Temporary residence for the exercise of independent professional activity or entrepreneurship

In **Portugal**, there is a residence visa for the exercise of independent professional activity (self-employed) or migrants who are entrepreneurs (Art. 60, Law 23/2007).

Two professional activities will be analyzed in this article: independent professional and entrepreneur:

- 1. Independent professional:** the third country national needs a contract or written proposal for a partnership contract or a contract or written proposal for the delivery of a service. Secondly, when applicable, a declaration issued by the qualified entity for the verification of the requirements for the professional practice (Art. 31.1, Regulation 84/2007).
- 2. Entrepreneurs who wish to invest in Portugal:** in this case, the third country national of a third country needs to declare that he/she has undertaken or intends to undertake an investment operation in Portugal, indicating its nature, value and duration, as well as proof that he/she has already made investment operations or proof of financial resources (Art. 31.2, Regulation 84/2007). This residence application will be analyzed taking into consideration, namely, the economic, social, scientific, technological or cultural relevance of the investment.

In **Spain**, the person who wants to obtain a residence and work authorization on his/her own (Art. 103, Regulation 557/2011) must fulfill some requirements, such as having the required professional qualification, or proving the necessary investment to open a business (Art. 105, Regulation 557/2011).

In **Brazil**, these types of residence visas are analyzed in the permanent residence section, even if the authorizations are not considered as permanent *stricto sensu* (see section 3).

iii. Temporary residence for researchers or highly qualified professionals.

In Portugal, another option is the residence visa for researchers and individuals conducting a highly qualified activity (Art. 61, Law 23/2007).

This visa is granted to allow the execution of scientific research by third country nationals who have been hired to collaborate as researchers at a research institute, through (1) a promised, or effective, employment contract; (2) a written proposal of, or effective, service contract; or (3) a scholarship for scientific research, implementing the European Directive 2005/71/EC, which refers to a specific admission procedure of third country nationals for scientific research. The visa is also granted for teaching activities at universities, or for



highly qualified activities, to third country nationals who present (1) the adequate promise of, or effective employment contract; or (2) a written proposal of, or effective service contract.

Spain also grants residence authorization for research or highly qualified activity, and residence authorization for highly qualified professionals who bear an EU Blue Card (Arts. 73-84 and 85-96 respectively, Regulation 557/2011).

In this case, there are two types of authorization. The first one is granted for the conduction of scientific research to third country nationals who were hired to collaborate as researchers at a research centre (Art. 73, Regulation 557/2011), also implementing Directive 2005/71/EC.

The second authorization for highly qualified professionals results from the implementation of the European Directive 2009/50/EC.⁴³ The purpose of this Directive, based on the existence of the EU Blue Card, is to facilitate the admission of highly qualified workers, establishing a faster procedure, and grant social and economic rights equivalent, in certain areas, to those of the nationals from the receiving Member States. The Directive has still not been implemented in Portugal.

In **Spain**, a candidate who has the required qualifications (superior title or, exceptionally, five years of professional experience, which can correspond to this title) may get this type of residence authorization (Art. 85, Regulation 557/2011). The national employment situation must be considered before hiring a highly qualified worker. The national employment situation allows the hiring when: the position is included in the the catalogue with the listing of positions difficult to cover, when there is a certificate issued by the public employment service, or when the position is included in Article 40 of the law. The advantage of the residence authorization for subordinate work is that the person may benefit from the possibility of working in another Member State of the European Union, after 18 months.

In **Brazil**, the entry of qualified persons is prioritized and, therefore, we will refer to the case of temporary and permanent residence, already mentioned.

c. Renewal and loss of temporary residence

In **Portugal**, the residence authorization includes two types of authorization: temporary and permanent (Art. 74, Law 23/2007). Article 75 of Law 23/2007 establishes that the temporary residence authorization is valid for the period of one year and is renewable for succeeding periods of two years each. When the person has lived in the country for a period of at least five years, he/she may obtain permanent residence or long term residence (see section 3).

The conditions for an individual to obtain temporary residence, with no prejudice of the special conditions for the concession of the residence authorization, are the following:

- Have a valid residence visa, granted for one of the purposes provided by the law for the concession of residence authorizations;
- Non-existence of any fact that, if known by the qualified authorities, would prevent the concession of the visa;
- Presence in the Portuguese territory;

⁴³ Directive 2009/50/EC of the Council from May 25, 2009 regarding the entry and residence conditions of third country nationals to fulfill highly qualified jobs.

- Means of subsistence;⁴⁴
- Housing;
- Registration with social security, wherever applicable;
- Absence of any conviction for a crime which, in Portugal, is punishable with the deprivation of freedom for a period superior to one year;
- Be excluded from the period of restriction of entry in the national territory, following the alienation measure taken by the country, or be cited in the Schengen Information System, or the SEF Integrated Information System for his/her non-admission;
- The residence authorization may also be refused for reasons of public order, public safety and public health.

In regards to the renewal of the temporary residence authorization, the requirements are the following (Art. 78, Law 23/2007):

- Means to afford subsistence. This requirement has been limited due to the economic crisis⁴⁵;
- Afford housing arrangements;
- Have fulfilled the applicable fiscal duties, and the ones related to social security;
- Not be convicted with a punishment that, singularly or cumulatively, exceed one year in prison.

The residence authorization may not be renewed for reasons of public order or public safety. However, the emergence of diseases after the issuance of the first residence title does not constitute sufficient grounds to justify the refusal of the residence authorization's renewal.

Beyond these general renewal requirements, the requirements that are imposed in regards to each specific modality of residence title must also be considered. Therefore, for the renewal of the residence authorization for the performance of professional activity (subordinate or independent), the maintenance of an employment relationship is necessary. In order to renew the residence authorization for research or highly qualified work, the same requirements are necessary (Art. 63, Regulation 84/2007).

In regards to the cancellation of a residence authorization, Art. 85, Law 23/2007 determines that it can be cancelled when:

- its holder has been the target of a decision of expulsion from the national territory;
- the residence authorization has been granted based on fraudulent or untrue declarations or documents;
- there are serious reasons to believe that its holder has committed severe criminal acts or there are real indications that he/she intends to commit acts of this nature; or
- for reasons of public order or safety;

⁴⁴ The criteria for the determination of the meaning of subsistence is described in the Ordinance no. 1563/2007, from December 11 (complemented by no. 760/2009, from July 16, which limits these quantities in certain circumstances, taking into consideration the current economic crisis) referring to the minimum monthly wage guaranteed, later refer to as RMMG, and considering the corresponding net nature and regularity of the contributions to social security, with the following rating per capita in each household: a) First adult, 100%; b) Second or more adults, 50%; c) Children and those younger than 18 years old and older children, 30%.

⁴⁵ The reality of the crisis has been partially considered by the legislation to facilitate the renewal of the visa, expanding the understanding of what subsistence means.



- when the person interested, with no explanation, is absent from the country for six consecutive months or eight months interpolated within the authorization's total period of validity.

The residence authorization is not cancelled, however, for absent citizens who are absent for periods longer than the periods foreseen, but prove that they were in their country of origin during the absence, performing a professional activity.

In **Spain**, the residence authorization includes two types of authorization: the temporary long-term authorization (formerly known as permanent) (Art. 30 bis, Law 2/2009). Article 31 of Law 2/2009 establishes that the temporary residence authorization is valid for a period greater than ninety days and less than five years. When the person has lived in the country for five years, he/she may be granted long-term residence (see section 3).

The requirements to renew the residence and work authorization are the following (Art. 38.6, Law 2/2009):

- the employment contract for the first authorization has been renewed, or the person has another employment contract;
- when the person receives a contributive wage for unemployment;
- when the foreigner is a beneficiary of an economic assistance wage of public source for his/her employment or social integration;
- other circumstances established by the Regulation.

In regards to residence authorization for subordinate work, the Regulation establishes several other possibilities to facilitate the renewal and, therefore, prevent the person from staying in an irregular situation. The person may renew the authorization, if he/she has worked for more than six months per year, and has a new employment contract with another employer (Art. 71 (2) (b), Regulation 557/2011). If the person has only worked for six months over the past year, he/she may also renew the authorization if the work was interrupted for reasons beyond the person's will, if he/she has actively looked for a job through his/her registration in the Public Employment Service and, at the moment of renewal, has an employment contract in place. The renewal is also possible if the person has worked nine of the last 12 months, or 18 of the last 24 months, and when the spouse or partner in a stable relationship (equivalent to a marriage) has sufficient resources for family reunification (Art. 71 (2) (c), Regulation 557/2011).

Regarding the cancellation of the residence authorization, Article 162 of Regulation 557/2011 and following establish some circumstances, such as: the authorization has been granted based on fraudulent or untrue declarations or documents, or when the interested person is absent from the country for six months within the period of one year, etc.

In **Brazil**, the renewal of the temporary residence authorization must respect the requirements of Article 9 of Normative Resolution 74.

The loss of the temporary residence authorization will depend on the Normative Resolution that was applied at its concession.

d. Rights

In **Portugal**, the rights of third country nationals are established in the legislation and the Constitution. Article 15 of the Constitution determines that foreigners and stateless persons who are located or reside in Portugal have the same rights and are subject to the same



responsibilities as Portuguese citizens. However, political rights are an exception, as well as the exercise of public activities that do not have a predominantly technical nature and the rights and duties reserved exclusively to Portuguese citizens by the Constitution and the law.

Article 83 of Law 23/2007 establishes that, with no prejudice of the application of special provisions and other rights provided by the law, or international conventions signed by Portugal, the residence authorization holder has the right to:

- education and training;
- perform a subordinate professional activity;
- perform an independent professional activity;
- professional orientation, training, improvement and recycling;
- access to healthcare;
- access to the Law and the courts.

The application of the provisions that ensure the equality of treatment of foreign citizens is also guaranteed with regard to social security, fiscal benefits, union affiliation, recognition of certificates, diplomas and other professional titles, or the access to goods and services available to the public, as well as the application of the provisions that concede special rights (Art. 83.2, Law 23/2007).

Brazilian citizens in Portugal enjoy the rights established by Decree-Law 154/2003 from July 15, which regulates the assignment and registration of the statute of equality to Brazilian citizens residing in Portugal, established by the Treaty of Friendship, Cooperation and Consultation between Brazil and Portugal.⁴⁶

The statute of equality is granted to Brazilian citizens, civilly capable, who have resided in Portuguese territory for at least three years (Art. 5, Decree-Law 154/2003).

The Brazilian citizens who have been granted the statute of equality enjoy the same rights and are subject to the same responsibilities as Portuguese nationals, with the exception of diplomatic protection in third countries, access to the position of President of the Republic, Prime Minister, President of the Supreme Court and the Armed Forces, and diplomatic careers (Arts. 15 and 16 of Decree-Law 154/2003).

In **Spain**, third country nationals have the following rights, according to the Immigration Law and the Spanish Constitution (Donaire Villa: 2012). The general criterion is that these rights are reciprocally recognized in equality of conditions with Spanish citizens (Art. 3, Law 2/2009):

- **Free access** to all national territory (Art. 5, Law 2/2009). Irregular immigrants do not enjoy this right.
- **Right to public participation** (Art. 6, Law 2/2009). It is important to point out that this right includes the right to vote in city elections. This possibility is available for nationals of certain countries with which Spain has signed an agreement.⁴⁷ In order to realize this right, the person needs to register and to have lived in Spanish territory for a period of five years. However, there is no requirement for being a

⁴⁶ Treaty of Friendship, Cooperation and Consultation between the Portuguese Republic and the Federative Republic of Brazil, signed in Porto Seguro, on April 22, 2000.

⁴⁷ These countries are Bolivia, Cape Verde, Chile, Colombia, Iceland, Norway, New Zealand, Peru, Paraguay and Trinidad and Tobago.



permanent resident, but given the required period of five years, it is relevant to include this information here. This is why irregular immigrants have no right to vote in the city elections.

- **Freedom of reunion and manifestation** (Art. 7, Law 2/2009). Irregular immigrants also enjoy this right.
- **Freedom of association** (Art. 8, Law 2/2009). Irregular immigrants also enjoy this right.
- **Right to education** (Art. 9, 2/2009). For persons under 16 years of age, this is not only a right, but also a duty. Irregular immigrants also have the right to education (Sentence Constitutional Court (STC) 236/2007). Individuals above 18 years of age also have the right to education, but this is not regulated by the law on education. Foreigners also have access to the public scholarship system under the same conditions as applicable to Spanish citizens, with no distinction between regular or irregular immigrants.
- **Right to work and to social security** (contributive benefits) (Art. 10 2/2009). This right may be different, depending on the type of residence authorization held. People with permanent residence have the same right of access to work as nationals, except for the access to the State employees body. However, they can work at the public administration as employees under the same conditions as applicable to Spanish citizens. Law 7/2007 from April 12, from the Public Employee Basic Statute, regulates the access to public employment and establishes some differences depending on the person's nationality. Therefore, nationals of the Member States of the European Union, the States from the European Economic Area, and Switzerland, as well as their family members (spouses and descendants, including those of Spanish citizens) have access to the State employees body, except in those positions that, directly or indirectly, imply participation in positions of public power, or positions whose purpose is to safeguard the interests of the State or Public Administration branches. However, it is important to point out that this restriction has been interpreted with certain limitation by the European Union Justice System.

Irregular immigrants have no right to work in Spain. However, irregular immigrants enjoy rights derived from the employment contract (Art. 36.3, Law 2/2009), such as: safety and health in the workplace, right to a salary, job promotion and vocational training, and the respect of other employment conditions, such as working hours, authorizations, suspensions, etc. (Donaire Villa: 2012, 113-14).

Immigrants with regular status also have the right to access the social security system (contributive benefit), especially unemployment benefits. However, this right is not available to irregular immigrants. (Art. 36.5, Law 2/2009).

- **Right to participate in labour unions and strike** (Art. 11, Law 2/2009). Irregular immigrants also enjoy these rights.
- **Right to medical assistance** (Art. 12, Law 2/2009). Here, several situations can be distinguished:
 - » all foreigners, regardless of regular or irregular status in the territory, have the right to emergency care until medical release is granted;
 - » those under 18 years of age have the right to medical assistance under the same conditions as Spanish citizens, regardless of regular or irregular status in the territory;

- » foreign pregnant women also have the right to medical assistance regardless of their migration situation, including postpartum attention;
- » foreigners in irregular situation in the territory have no access to medical assistance, except in the previous categories, since August 31, 2012 (Royal Decree-Law 16/2012). However, several autonomous communities have announced the continuation of complete medical assistance to irregular immigrants.
- **Housing rights** (Art. 13, Law 2/2009). All foreigners have the right to access the same public systems for housing support, but only long-term residents have the right to this kind of assistance under the same conditions as nationals. This means that immigrants with temporary residence may request the assistance, but the nationals or foreigners with permanent residence will be given preference (Donaire Villa: 2012, 123). Irregular immigrants have no housing rights.
- **Right to social security and social services** (Art. 14, Law 2/2009). Here, we refer to the contributive benefit. Foreigners have the right to access social security under the same conditions as Spanish citizens, both the basic and specific benefits. On the other hand, irregular immigrants enjoy only the right to the basic benefits. This is also the case for foreigners with special needs and those under 18 years of age who live in Spain, because they also enjoy the same benefits regardless of their administrative situation.
- **Right to free legal assistance** (Art. 22, Law 2/2009). This right is also applicable to those in irregular situation.
- **Right to freedom from discrimination** (Art. 23, Law 2/2009). This article prohibits any discriminatory act which may encourage a distinction, exclusion, restriction or preferential treatment against a foreigner because of race, skin colour, origin, ethnicity or religion, with the purpose of limiting the recognition or the exercise of human rights and fundamental freedoms in equality of conditions within the political, economic, social or cultural scopes;

In **Brazil**, these rights are established in the Article 5 of the Constitution, and establish that “all are equal under the law, with no distinction of any nature, being guaranteed to all Brazilians and foreign residents in the country the protection of the right to life, freedom, security and property...” The Constitution also guarantees the right to healthcare and education with no distinction between Brazilians and immigrants (Art. 6). According to Article 196 of the Constitution, “health is a right of all people and it is a duty of the State...” Law 8.080/90, Health Organic Law (LOS) states, in this sense, in Article 2, that: “health is a fundamental right of the human being, the State being responsible to provide the necessary conditions for its full exercise.” Regarding the right to education, the Constitution guarantees, in Article 205, that it is a “right of all and a duty of the State.”

The Constitution itself also numbers some restrictions, and among the most important are: prohibition of military service and vote (Art. 14, Constitution), restricted access to public office (Art. 37, Constitution)⁴⁸ and the veto to some important public office positions (Art. 12, Constitution).

Article 95 of Law 6815 establishes that foreigners who reside in Brazil enjoy all rights recognized for Brazilians under the terms of the Constitution and the legislation.

⁴⁸ Until the present moment, there is no law regulating the access of foreigners to public office (Sbalqueiro, 2009: 479).



As regards the right to work, the foreigner admitted as a temporary worker under a contractual provision will only be able to perform a job at the entity which he/she was hired to work for, except with an express authorization of the Ministry of Justice, after approval of the Ministry of Labour (Art. 100, Law 6815 and Art. 11, Regulation 86715). Therefore, the change of employer is possible, provided that there is an authorization by the Ministry of Justice. In practice, this procedure is extremely rare, and companies prefer to cancel the foreigner's visa and request a new work visa from another employer.

Article 34 of Law 6815 allows the extension of the term of stay. When the temporary stay is converted into a permanent stay, the foreigner may exercise all civil and social rights in Brazil as a permanent resident, including the right to freely change employers. In general, the concession of permanent residence is possible after the expiration of the renewal of the initial stay of foreigners with temporary work visas.

Article 106 of Law 6815 establishes some vetoes on the foreigner, among which we highlight the veto of the right to be the proprietor of news corporations of any kind. Article 107 also establishes that the exercise of political activities or integration into public businesses in Brazil are prohibited.

The new Bill 5.655/2009 is much more specific. In Article 5, it assures certain rights to foreigners:

- the sanctity of the right to life, freedom, equality, security and property;
- civil and social rights recognized for Brazilian citizens;
- freedom of circulation within the national territory;
- the right to pacific gatherings, free of weapons, in places open to the public, regardless of authorization, provided that it does not conflict with another gathering previously summoned at the same location, with the requirement of a previous notification to the qualified authority;
- the right to association for lawful purposes, under the terms of the law;
- the right to education;
- the right to public healthcare;
- workers' rights and labour union rights, under the terms of the law; and
- access to the judicial system, including voluntary assistance.

Article 7 of Bill 5.655/2009 continues to prohibit the foreigner from proprietorship of news companies, and the exercise of political activities, and the organization, creation or maintenance of associations of political character (Art. 8, Bill 5.655/2009). This does not apply to Portuguese citizens who enjoy political rights in Brazil, besides the other rights guaranteed by the Treaty of Friendship, Cooperation and Consultation.⁴⁹ The statute of equality is granted upon the decision of the Ministry of Justice to Portuguese citizens civilly capable who have resided in Brazilian territory and require it for at least three years (Art. 15, Decree 3.927-2001).

Portuguese citizens to whom the statute of equality has been granted enjoy the same rights and are subject to the same duties as Brazilian nationals, with the exception of those rights expressly reserved for Brazilian nationals by the Constitution (Arts. 12 and 14, Decree 3.927-

⁴⁹ Treaty of Friendship, Cooperation and Consultation, approved by the Legislative Decree 165, from May 30, 2001, and proclaimed by the Decree 3.927, from September 19, 2001.

2001). Portuguese citizens may only exercise political rights after residing in Brazil for three years (Art. 17, Decree 3.927-2001).

e. Conclusions and preliminary recommendations

There are several forms of entry for temporary residence in the three countries. The most important aspect is to analyze not only the rights the migrants enjoy, but also the possibilities of renewal of the initial residence authorization. This is important if the person wishes to establish himself/herself in the country in a regular situation.

Regarding rights, there is an important difference in Brazil because foreigners cannot be proprietors of news corporations and cannot conduct political activities. This is a very important limitation and difficult to explain. In Portugal and Spain, political rights are accessible to foreigners who are nationals from countries that offer reciprocity according to agreements signed.

Most residence visa applications, permanent or temporary, are related to the labour market. That is, the immigrant must prove his/her means of subsistence. Nevertheless, there is a vicious circle in place, once both needs coexist: an employment relationship in order to become a regular immigrant, and a regular status as an immigrant to get employment. In this sense, complete access to the labour market is crucial after the first renewal of the residence authorization, otherwise situations of abuse may occur.

4.4 Right to family reunification

In this section, we will refer to the possibilities offered to foreigners for family reunification. With respect to Portugal, we will not mention the family reunification for citizens of Portugal, the EU, the EEA or Switzerland because this will be analyzed in the fifth section. The same is true for Spain and, therefore, the provision discussed in this section is not applicable to Spanish citizens, and citizens from the EU, the EEA or Switzerland. In the case of Brazil, this section provision is not applicable to the citizens of the Mercosur or associated states (Bolivia, Chile, Peru, Ecuador and Colombia), to which the Mercosur Residence Agreement applies (see section 5). Therefore, the regimes for Brazilian and foreign citizens are assessed.

The immigrant will have three essential questions in mind: is there the right for family reunification? What are the family members who may enter the country and in which conditions? What are the conditions of residence and the rights of my family members?

In the countries of the European Union, the right to family reunification is available to those people who have temporary residence and who fulfill certain conditions that must be interpreted restrictively. This right derives from the European Directive 2003/86, which refers to the right to family reunification.⁵⁰ This is clear, also, in the Spanish and Portuguese legislation establishing the right to family reunification (Art. 16.2, Law 2/2009 in Spain and Art. 98, Law 23/2007 in Portugal). The European Court has clearly established the right of the person to family reunification in two decisions.⁵¹ The European Directive allows the Portuguese and Spanish regimes to be very similar. In Brazil, however, this right is not so clearly established in the Normative Resolutions of the CNIG.

⁵⁰ Directive 2003/86/EC of the Council from September 22, 2003, referring to the right to family reunification.

⁵¹ Process C-540/03 European Parliament against the European Union Council; **Process C-578/08 Chakroun**.



This section will discuss the following points: a) people who can enter the country for family reunification purposes; b) conditions and other aspects; c) conclusions.

a. People who can enter the country for family reunification purposes

In **Portugal**, the right to family reunification is attributed to the holder of a valid residence authorization of duration equal or longer than one year, regardless of whether the family ties are prior or posterior to the resident's entry (Art. 98, Law 23/2007).

Family members are considered to be the following (Art. 99, Law 23/2007):

- the spouse;
- minor children or incapable children under the couple's care, or one of the spouses' care;
- minors who were adopted by the solicitant when not married, by the solicitant or spouse, by a decision of qualified authority in the country of origin, provided that the law in that country recognizes the adopted persons' rights and duties as being identical to those of the natural filiation, and that the decisions are recognized in Portugal;
- minor children, under the couple's or one of the spouse's responsibility, who are single and find themselves studying in an educational facility in Portugal;
- the direct and first degree ascendants of the resident or of his/her spouse, provided that they are under their custody;
- the younger siblings, provided they are under the resident's custody, added the decision pronounced by the qualified authority in the country of origin, provided that this decision is recognized in Portugal.
- Family reunification can also be authorized with (Art. 100, Law 23/2007):
- the partner who maintains an actual and duly proven union⁵² with the foreign resident, within the national territory or outside of it;
- the single children, minor or incapable, including the adopted children of the effective partner, provided that they are under their custody.

In **Spain**, the right to family reunification is guaranteed to the valid residence authorization holder, after the first renewal of residency (therefore, after one year), regardless if the family ties are prior or posterior to the resident's entry.

Family members are considered the following (Art. 17, Law 2/2009):

- the spouse;
- minor children, or children over 18 years of age who are incapable, under the couple's or the spouse's care;
- minor adopted children or children over 18 years of age who are incapable, – or children adopted by the spouse;
- children under 18 years of age or children over 18 years of age who are incapable, when the foreign resident is the legal representative;

⁵² Article 104 (2), Law 23/2007, establishes that the evaluation of the request regarding the *de facto* union must take into consideration factors such as: the existence of a common child, previous cohabitation, the registration of the *de facto* union or any other trusted means of proof (see also Art. 67(2)(g), Regulation 84/2007).

- the direct first degree ascendants of the resident, or the spouse, provided that they are under their care, if over 65 years old, and if they prove that there are reasons to justify their residence in Spain. Also, persons under 65 years old if there are humanitarian reasons. Only the citizens of third countries who are long-term residents have the right to family reunification of direct and first degree ascendants (Art. 17.3, Law 2/2009);
- the partner who maintains a *de facto* union with foreign citizen, duly proven, or a relationship equivalent to a marriage, will be considered equal to the spouse for all purposes. Therefore, the children can be regrouped with their families under the same conditions as the spouse's children.⁵³

In **Brazil**, the provision applicable to family reunification is included in two Normative Resolutions:

- Normative Resolution 36 from September 28, 1999. *Concession of temporary or permanent visa for family reunification purposes. (Amended by Normative Resolution 85 from April 14, 2010);*
- Normative Resolution 77 from January 29, 2008. *Deals with the criteria for the concession of temporary or permanent visa, or permanence authorization for partner in stable union,⁵⁴ with no distinction of gender.*

Article 1, NR 36 from 1999 establishes that the Ministry of Foreign Relations “may” grant temporary or permanent visa to the legal dependents of Brazilian citizens or foreign temporary residents in the country over 21 years of age. The temporary resident in Brazil may invoke the right to family reunification when the stay in the country is longer than six months, excluding the exercise of any paid activity by the dependent (Art. 3, NR 36). With respect to the foreigner holding a permanent visa or definite permanence, family reunification may be invoked in case the solicitant already possesses the definite card granted by the qualified authorities (Art. 4). Therefore, there is no subjective right to family reunification in Brazil (Sbalqueiro: 2009, 611-612) and the word “right” is only used in the Article 3 of NR 36. It is nevertheless important to point out that the protection of the family is a constitutional right, and legal decisions determined that the State should guarantee this right through the concession of visas to foreigners who fulfill certain legal requirements.

Family members are considered the following (legal dependents) (Art. 2 NR 36):

- single children, under 21 years of age, or older who are proven to be incapable of providing for their own subsistence;
- ascendants, provided that the need for the solicitant's support is proven;

⁵³ The ways to prove a relationship equivalent to a marriage are the registration in the public registry or, in those cases where the relationship is not registered, other means admitted in the legislation, only if the relationship existed before residence in Spain.

⁵⁴ In Brazil, the proof of stable union can be established by one of the following documents: certificate of stable union, issued by the governmental agency of the solicitant's country of origin; or proof of stable union issued by qualified source in Brazil or corresponding authority abroad (Art. 2, NR 77). Article 3 of NR 77 establishes other possibilities to prove the stable union in the absence of documents which Art. 2 refers to. In these cases, the “proof of stable union may be done through the presentation of: I – certificate or similar document, issued by authority of the national civil registry, or foreign equivalent agency; II – declaration, under the provisions of the law, of two people who attest the existence of the stable union; and III – at least, two of the following documents: a) proof of dependency issued by fiscal authority or agency corresponding to the IRS; b) certificate of religious wedding; c) testamentary dispositions that prove the relationship; d) life insurance policy, in which one of the interested parties is the insurer and the other is the beneficiary; e) purchase and sale contract, registered in the Real State Ownership Registry, in which the interested parties are the proprietaries, or a real state rental contract in which they are the lessees; f) joint bank account.”



- sibling, grandchildren or great-grandchildren, if orphan, single and under 21 years of age, or at any age when the need to provide subsistence is proven;
- spouse of Brazilian citizen;
- spouse of temporary or permanent foreign resident in Brazil;
- the person with whom the citizen has a duly proven stable union. Articles 2 and 3 of NR 77 from 2008 establish the requirements for the proof of stable union.

Article 41 of the new Bill 5.655/2009 regulates the residence authorizations for family members. The temporary residence may be granted in the following cases:

- to the foreigner with a Brazilian spouse or a spouse who is a foreign resident, from whom he/she is separated, *de facto* or legally, or with whom he/she proves a stable union with Brazilian citizen or foreign resident, with no distinction of gender. In this case, the residence will be temporary for three years and it will allow paid employment. After the end of this period, it may become permanent, in case the conditions that authorize the concession of temporary residence persist;
- to the descendant or ascendant of the temporary foreign resident, provided that the effective need for support is proven; or
- to the sibling, grandchildren or great-grandchildren when orphan, single, under 21 years of age, or at any age if the impossibility of subsistence and the need of support from the temporary foreigner are proven.

In these two last cases, the temporary residence will be linked to the resident's visa and the concession of temporary residence for employment will depend on the previous manifestation of the Ministry of Labour and Employment (Art. 41, Bill 5.655/2009).

Article 43 of Bill 5.655/2009 also includes other people to whom the permanent residence authorization may be granted:

- the ascendant of the permanent foreign resident, provided that the economic dependence or the effective need for support are demonstrated;
- the descendant of the permanent foreigner under his/her custody and economically dependent, or if the need for effective support is proven;
- the sibling, grandchildren or great-grandchildren when orphan, single and under 21 years of age, or at any age, when the impossibility of subsistence and the need for support from the permanent foreigner or Brazilian citizen are proven.

Therefore, the Bill 5.655/2009 still does not concede a right relative to family reunification.

b. Conditions and other aspects

In Portugal and in Spain, in order to authorize the family reunification, the solicitant must prove the availability of housing and means of subsistence (Art. 101, Law 23/2007 in Portugal, and Art. 18.2, Law 2/2009 in Spain).⁵⁵

Family members of the solicitant have the right to professional activity, independent or subordinate, in Portugal and Spain, as well as the access to education. This right derives from the European Directive and, consequently, the same is true in Spain, which authorizes the spouse, partner and children over 16 years of age to work (Art. 19, Law 2/2009 and art. 58.4, Regulation).

⁵⁵ In Spain, the calculation of means of subsistence is established in Art. 54 of Regulation 557/2011.

In **Portugal**, family members are granted residence authorization with durations identical to that of the resident. If the resident is a permanent resident, family members obtain a renewable residence authorization valid for two years (Art. 107 (1) and (2), Law 23/2007).

Family members have the right to an autonomous residence, after two years, if the family ties persist. They also have the right to an autonomous residence before two years, if the holder of the right to family reunification has minor children residing in Portugal (Art. 107 (3), Law 23/2007).

In exceptional cases, an autonomous residence authorization may be granted before two years (for example, legal separation of people and assets, divorce, widowhood, death of ascendant or descendant, criminal conviction of family member for the crime of domestic violence and when adulthood is reached) (Art. 107 (4), Law 23/2007).

The spouse married to the resident for more than five years is directly granted an autonomous residence (Art. 107 (5), Law 23/2007).

Finally, the residence authorization is cancelled if the marriage, the *de facto* union or the adoption had the sole purpose of allowing the interested person to enter or reside in the country (Art. 108, Law 23/2007).⁵⁶

In **Spain**, family members receive a residence authorization with duration identical to that of the resident. If the resident is a permanent resident, family members obtain a residence authorization valid until the date of renewal of the solicitant's long-term residence. Therefore, the following residence authorization will be a long-term residence authorization for relatives (Art. 58.3, Regulation 557/2011).

The spouse may receive an independent residence as soon as he/she has economic resources sufficient to fulfill his/her needs. The same occurs with the children when they reach 18 years of age, and prove sufficient economic resources (Arts. 19 (2) and (3), Law 2/2009).

These residence authorizations are renewable provided that the family ties persist (Art. 61, Regulation 557/2011). There are also rules for the obtainment of a residence that is independent from the solicitant (Art. 59, Regulation 557/2011), as well as for a residence in case of divorce, widowhood and domestic violence (Art. 59, Regulation 557/2011).

In **Brazil**, the applicable legal regulation will depend on the solicitant (main visa holder). If the solicitant holds a temporary visa, the visa for the family member will also be temporary. If it is permanent, so will that of the family member. There is a special rule in Article 7 of NR 77 for stable unions, through which "in the case of a permanent visa or permanence authorization, the foreigner will continue to be tied to the condition that allowed its concession for the period of two years." The bearer of the permanent registration may request indefinite permanence if the continuity of the stable union is proven. On the other hand, after the period of two years, "it will be the Ministry of Justice's responsibility to decide about the indefinite permanence of the foreigner in the country."

Finally, when the residence is temporary, the spouse is not allowed to work. If the solicitant is a Brazilian citizen, or permanent resident, the spouse is allowed to work, but the solicitant resident must hold definite permanence. These rules have changed in the Bill 5.655/2009, as discussed in the previous section.

⁵⁶ Convenience marriages are regulated in Article 186 of Law 23/2007.



c. Conclusions

The most important aspect to be highlighted is the fact that in Portugal and Spain there is a subjective right to family reunification. This right is not so clearly established in the Brazilian legislation, nor in the new Bill 5.655/2009. This could be modified to also consider the decisions of the judiciary, which has recognized the right to family reunion, if the requirements established by Normative Resolutions 36/99 and 77/2008 are fulfilled. This is important because the right to family reunification facilitates the person's integration into the welcoming society. Families that are united enjoy more stability to participate in the society of destination.

Regarding the persons who are authorized to enter, the provision is very similar. In Brazil, the possibility of entry for the sibling, grandchild or great-grandchild, if orphan, single and under 21 years of age (18 years in the new Bill 5.655/2009) or at any age, if certain conditions are proven, represents a good practice.

At the same time, the living conditions of the relative are important. In this sense, the possibility of renewing the residence authorization and obtaining an independent residence after a certain number of years seems essential, as well as the right to perform a professional activity. In case of Brazil, with regard to temporary visas, the difficulty that family members have to face to acquire independent residence causes several problems, especially for victims of domestic violence.

4.5 Permanent residence

Within the legal system of any country, there are normally two types of residence authorization for non-nationals: temporary residence authorization and permanent residence authorization. The essential difference between the two types is that the permanent residence has no validity limit and it grants more rights to the immigrant than the temporary residence. Consequently, the permanent residence is essential, as it offers security to the foreign citizen in its legal statute, which allows the development of a life project in the receiving country.

This section will discuss the following points: a) introductory aspects; b) conditions for the acquisition of permanent residence; c) loss of permanent residence; d) rights; e) conclusions and preliminary recommendations.

a. Introductory aspects

In **Europe** there are two possibilities of becoming a permanent resident: the European long-term resident status, and the permanent resident national status (or long-term).

First of all, the status of long-term resident is established by the European Union in the European Directive 2003/109 from November 25, 2003, referring to the status of third country nationals who are long-term residents. This is the reason why the provisions in Portugal and Spain are virtually identical. The status of long-term resident is very important for three main reasons. First, it establishes equality of treatment with nationals in many areas. Secondly, people who enjoy this status benefit from an additional residence security, as they can only be expelled from the territory in very limited cases, after several elements have been considered. Finally, the long-term resident acquires the right to go to another Member State of the European Union⁵⁷ for a period longer than three months, to work or

⁵⁷ Except Denmark, United Kingdom and Ireland, which are not tied to the Directive, nor are they subject to its application.



study. Therefore, the long-term resident has the possibility of living in another Member State, a situation which is inadmissible for temporary residents.

Another two elements deserve to be distinguished before analyzing Portugal and Spain specifically.

Firstly, the European Union Court has clearly established that the person has a subjective right to obtain the status of long-term resident if he/she fulfills the necessary requirements (Acosta Arcarazo: 2012).⁵⁸

Secondly, Article 4.1 of Directive 2003/109 determines the following:

Member States must grant the status of long-term resident to the third country nationals who have legal uninterrupted residence in its territory for the five years immediately prior to the presentation of the referred request.

This article clearly shows the subjective right of the person (“Member States must”) and, furthermore, has a direct effect. This means that the third country national may directly invoke this article at national or European jurisdiction, in the case the Member State has been wrongly implementing the Directive.

Besides the European status of long-term resident, Member States may decide to keep a status of national permanent resident. Article 13 of the Directive authorizes Member States to issue national permanent residence titles under more favourable conditions, for example, to nationals from third countries with which they have a special relation or are significant investors, etc. However, these titles do not guarantee a right to move to another Member State. Third country nationals are authorized to be holders, simultaneously, of a national permanent residence title, which supplements the long-term residence title. Nevertheless, European States cannot request that third country nationals choose between both titles, because this type of choice is not “in conformity with the Articles 4.1 and 7.3 of the Directive, which establishes that the Member States must grant the status of long-term resident when the solicitant fulfills the Directive’s conditions” (European Commission: 2011, 7).

In addition to the long-term residence status, **Portugal** and **Spain** also offer the national permanent status and for this reason we will discuss both countries briefly, since the European long-term status is more beneficial.

In **Brazil**, there are also several types of residence authorizations for non-nationals. Article 4 of the Law 6.815-1980 establishes the following types of visa: transit; tourist; temporary; permanent; courtesy; official; and diplomatic. In this section, we will analyze the permanent resident status, given that the temporary residence has been previously analyzed.

The main difference between Brazil, Portugal and Spain (and any other country in the European Union) is that, in Brazil, there is no right subject to the obtainment of permanent residency after a certain number of years. Therefore, there is no possibility of acquiring permanent residence as a result of the duration of residence.

In Brazil, unlike Europe, only the persons who fit certain categories have the right to permanent residence. It is also important to point out that these categories of people usually obtain permanent residence as soon as they enter the territory. However, they still need to make an additional request in cases where the permanent residence visas are subject to confirmation after five years, and proven compliance with the requirements established by the Ministry

⁵⁸ Case C-508/10, European Commission against the Kingdom of the Netherlands, April 26, 2012; Case C-571/10, Kamberaj, April 26, 2012.



of Labour and Employment. Art. 18 of the same law determines that the concession of the permanent visa is conditional to settlement in certain regions of the national territory, and exercise of a certain activity, during a period not greater than five years (see also Art. 112, Regulation). This is why “given the specificity of permanent visas, which are subject to confirmation, they should be strictly considered temporary visas with a tendency to become permanent, if its holder proves that he/she remains tied to the company, or another reason [...] for the concession of the visa.” Under these conditions, the visa may be considered more as a visa for the company than for the person (Sbalqueiro Lopes: 2009, 525). The fact that the permanent visa may be conditional to the exercise of a certain activity is also different in Portugal and Spain, because once the person obtains the permanent residence, he/she has complete access to the labour market, except for public jobs.

b. Conditions of acquisition

European Long-Term Residence Status

In **Portugal**, the long-term Directive was implemented by the Law 23/2007, which we will refer to in the following paragraphs. The long-term residence status may be acquired by any third country national (therefore, people who are not citizens of the European Union) who fulfills the following conditions (Art. 126, Law 23/2007):

- has lived legally and uninterruptedly in Portugal for a period of five years, immediately prior to the presentation of the request;
- has access to stable and regular resources that are sufficient for his/her own subsistence, and the subsistence of family members, with no need to resort to the sub-system of solidarity. These resources are evaluated with reference to their nature and regularity, considering the minimum salary and pension levels at the given moment (Art. 126.6, Law 23/2007);
- proof of health insurance;
- proof of housing;⁵⁹
- demonstrates knowledge of basic Portuguese.

The person cannot represent a danger in terms of public order or public security. However, the severity of the type of offence against the public order and public security must be considered, or the dangers that may result from the permanence of the person in the national territory, as well as the duration of residence, and the existence of ties with the person’s country of origin. It is important to mention that this refusal of resident status cannot be based on economic conditions (Art. 127, Law 23/2007).

There are two categories of people that cannot benefit from the long-term status:

- persons with residence authorization for study, unpaid professional internship or volunteer work; and
- persons who remain in Portugal exclusively for reasons of temporary nature (such as seasonal workers).

However, if a third country national obtains a residence authorization which allows him/her to benefit from the long-term resident status, the period in which he/she had a resident

⁵⁹ The introduction of this condition is not allowed by the Directive in its Art. 5. See more information in Peers, Guild, Acosta, Groenendijk and Moreno-Lax: 2012, 302.

visa for study, unpaid professional training or volunteer work is considered in half for the calculation of the total period of five years (Art. 126.3, Law 23/2007).

In **Spain**, the long-term Directive was implemented by the Organic Law 2/2009 and by the Royal Decree 557/2011, which regulates the Law. The long-term status may be acquired by any third country national (therefore, people who are not citizens from the European Union) who fulfills the following conditions (Art. 152, Regulation 557/2011):

- has legal and uninterrupted residence in Spain for a period of five years, immediately prior to the presentation of the request;
- has stable and regular resources that are sufficient for his/her own subsistence, and that of his/her family members. The resources are evaluated with reference to the resources necessary for family reunification. For family units with two members, the quantity required was €799 in 2011. For each additional family member, you must add €266;
- proof of health insurance, public or private;
- the person cannot represent a danger for reasons of public order or public security. This is proven with a certificate of no criminal records in the preceding five years (Art. 153.2.f., Regulation 557/2011).

The persons who have received a residence authorization for study, unpaid professional internship or volunteer work may count the period through which they held the resident status for the activities abovementioned. This period is counted, in half, for the calculation of the total period of five years, if the person holds the residence authorization at the time of the request (Art. 152, Regulation 557/2011).

Spain has already implemented Directive 2009/50 about the residence of third country nationals for highly qualified employment purposes⁶⁰ and, therefore, has a disposition that has not been implemented in the Portuguese law yet, because Portugal has not implemented the Directive (this derives from Article 16 of this Directive, which establishes derogation to the Directive 2003/109). Thus, holders of an EU Blue Card⁶¹ who have accumulated periods of residency in different Member States (highly qualified workers) may receive the long-term residence if he/she lives, legally and uninterruptedly, within the Union's territory as holders of an EU Blue Card, and if he/she has resided in Spain during the two years immediately prior to the presentation of the request for the EU long-term residence authorization (Art. 152, Regulation 557/2011).⁶²

c. Absence periods

In **Portugal**, the absence periods do not interrupt the period of five years and are counted for its calculation if they are less than six consecutive months and do not exceed a total of ten months (Art. 126.4, Law 23/2007). The same is valid in **Spain** (Art. 152, Regulation 557/2011). In **Portugal**, the absence periods for employment reasons are also taken into consideration for the calculation of the total period of five years (Art. 126.5, Law 23/2007). The same is true in **Spain**, but with the difference that these periods of absence for employment purposes cannot exceed six consecutive months, and ten months in total, in order to be counted for the calculation of the five years period.(Art. 152 a, Regulation 557/2011).

⁶⁰ Directive 2009/50/EC of the Council from May 25, 2009, referring to the conditions of entry and residence for third country nationals for highly qualified employment purposes.

⁶¹ See more information in the temporary residence section.

⁶² Portugal will have to promptly implement this exception, as the definite date for the amendment of the Directive was June 19, 2011.



d. Renewal

In **Portugal**, foreign citizens who have been granted long-term resident status receive a residence title valid for five years, automatically renewable upon request for the same validity term (Art. 130, Law 23/2007).

In **Spain**, the same rule applies (Art. 154, Regulation 557/2011).

National permanent resident status (or long term)

In **Portugal**, Article 80 of Law 23/2007 establishes that, with no prejudice of the dispositions in the present law referring to the status of third country nationals who are long-term residents, the foreigners who fulfill the following requirements can receive a residence authorization:

- bears a temporary residence authorization for at least five years;
- during the last five years of residence in the Portuguese territory, has not been convicted with sentences that, independently or cumulatively, exceed one year in confinement;
- proof of subsistence means;
- proof of housing;
- proven knowledge of basic Portuguese.

In **Spain**, the Article 32 of Law 2/2009 establishes other citizens with a special bond with Spain who can benefit from a national long-term residence authorization. These include (Art. 148.3, Regulation 557/2011):

- Residents who are beneficiaries of a pension fund under his/her contributive modality and included in the system of protective action of the Spanish social security system.
- Residents who are beneficiaries of a pension for permanent or considerable disability under his/her contributive modality and included in the protective action system of the Spanish social security system, or other similar benefits obtained in Spain and consistent with a non-capitalizable lifelong income sufficient for the person's subsistence.
- Residents born in Spain and who, upon coming of age, have lived in Spain, regularly and continuously, for the three years prior to the request.
- Foreigners who had been Spanish in origin, but lost the Spanish nationality.
- Residents who, upon coming of age, had been under the custody of a Spanish public entity during the immediate five years consecutively.
- Stateless persons, refugees or beneficiaries of subsidiary protection who are living in Spain, and of whom the respective status has been recognized.
- The Ministry of Labour may grant the permanent residence, upon recommendation from the Ministry of Interior, to those who have notably contributed to the economic, scientific and cultural progress of Spain, or the exterior protection of the country.

As regards the renewal of national permanent residences, in **Portugal**, Article 76 of Law 23/2007 establishes that the permanent residence authorization has no expiration date, however, it must be renewed every five years. In **Spain**, the same rule applies (Art. 150, Regulation 557/2011).

In **Brazil**, Art. 16 of Law 6815/1980 states that “the permanent visa may be granted to the foreigner who intends to settle in Brazil definitely.” The same article establishes that “the immigration will intend, primarily, the provision of specialized labour to the diverse sectors of the national economy, aiming at the National Development Policy in all its aspects and, in special, the increase in productivity, the assimilation of technology and the collection of resources for specific sectors.”

On the other hand, Art. 17 of Law 6815 refers to the special requirements established by certain norms for the selection of immigrants defined by the National Immigration Council (CNIg). As a result of this legal instrument, CNIg has established several modalities of permanent visas in the last years. We will try to classify the different types of visa, dividing them into categories. We will discuss the permanent visas for highly qualified foreigners, investors, retired persons, people who lost their permanent residence, other different categories, and very briefly, the relatives, as this last category is already discussed in the section about family reunification. We will also refer to the changes in the new Bill (Art. 34, Bill 5.655/2009).

Permanent visas for highly qualified persons:

- **Normative Resolution 62**, from December 8, 2004, modified by **Normative Resolution 95** from August 10, 2011: foreigner under the condition of administrator, manager, director or executive with management powers over social or commercial partnership or economic group.
- **Normative Resolution 63**, from July 6, 2005: entry of foreigner to represent in Brazil a financial institution, or similar, headquartered abroad.
- **Normative Resolution 70**, from May 9, 2006: Permanent visa to the foreigner designated as administrator, manager, or administrator of a non-profit legal entity;

Articles 1.3 of Resolutions 62 and 63, and 1.2 of Resolution no. 70, establish that the permanent visa is conditional to the exercise of the activity for which the person was hired and throughout the duration of the contract, in the first case, or to the mandate determined by the representative nomination instrument, in the second, or during the validity of the proxy granted, limited to a maximum of five years at Resolution no. 70. Therefore, the permanent resident, even if highly qualified, is in reality a temporary resident who may only do his/her job in the company which he/she was hired to work for, at least during the first mandate.

Article 34 (3) of **Bill 5.655/2009** grants the permanent visa to those who possess notable knowledge in their professional area of expertise, who are able to provide relevant services to Brazil. In this case, the visa is granted upon the previous manifestation of the qualified governmental entity in the foreigner’s area of expertise, under the terms of the regulation.

There are other groups of highly qualified persons, such as professors, researchers or scientists:

- **Normative Resolution 1**, from April 29, 1997. Concession of visa to professors or researchers of high acumen, and foreign scientists.

These may obtain the permanent visa when they intend to perform activities in public or private educational facilities, or scientific research facilities, for a period longer than two years (Art. 1, NR 1). The holder of the temporary visa may request its conversion into a permanent visa to the Ministry of Justice (Art. 5, NR 1).



This visa for scientists, professors or researchers is dealt with in Article 43.2 of the new Bill 5.655/2009.

Lastly, a final group of people has the possibility of receiving a permanent visa, who could also be considered highly qualified:

- **Normative Resolution 68, from December 7, 2005.** A foreigner who comes to Brazil as a volunteer in the position of director, manager or administrator of religious or charitable entities, or non-profit non-governmental organizations.

Article 2 of NR 68 determines that the visa will be conditional to the validity limit of five years, but it may be extended indefinitely, upon evidence that the foreigner continues to exercise the activity of director or administrator of the entity. In Article 21 of the new Bill, this visa is included for temporary volunteer work.

Permanent visas for investors:

- **Normative Resolution 84, from February 10, 2009:** Individual foreign investor, when the investment is evidenced, in foreign currency, in a total equivalent or superior to R\$150,000.00 (one hundred and fifty thousand *Reais*) (Art. 2). CNIg, however, may authorize the concession of a permanent visa when the amount is smaller, according to the criteria established in the resolution itself.
- **Normative Resolution 18, from August 18, 1998,** concerns the concession of a permanent visa to the foreigner who intends to come to Brazil in the role of investor, administrator or director of company located within the Export Processing Zone (ZPE).

These visas do not concede real permanent residences. In the case of the first one, at the end of three years, the foreigner will need to prove the investment in order to have his/her stay in Brazil renewed (Arts. 6 and 7, Resolution no. 84). In the case of the second, the Ministry of Justice may cancel the foreigner's stay, if it is notified about the non-fulfilment of the conditions approved for the investment project which the person is bound to (Art. 3 of Resolution no. 18). Thus, in these cases, the permanent resident may only maintain the situation if he/she maintains the investment.

Article 34 (5) of the **new Bill 5.655/2009** foresees the concession of permanent visas to those who make productive investments that contemplate a satisfactory number of direct jobs, considering the location of the enterprise in Brazil, and promote, directly or indirectly, the economic, social or technological development of the place in which they will be installed. In this case, the visa will depend on the previous authorization of the Ministry of Labour and Employment, after hearing the qualified entity responsible for the sector in which the investment was made, whenever necessary.

Permanent visas for retired persons:

Normative Resolution 45, from March 14, 2000, amended by Normative Resolution 95 from August 10, 2011 refers to the entry. The Ministry of Foreign Relations may grant a permanent visa to retired foreigners, accompanied by a maximum of two dependents, who can prove the possibility of transferring an amount equivalent or superior to R\$6,000.00 (six thousand *Reais*) on a monthly basis. If the person interested has more dependents, he/she will be mandated to transfer, in addition, an amount equivalent or superior to R\$2,000.00 (two thousand *Reais*) for each dependent exceeding the first two dependents.



This category is extended, in the new Bill, for those who prove the receipt of resources from lawful origins, coming from the country of nationality or origin, and sufficient for the person's subsistence in Brazil (Art. 34.4 Bill).

Permanent visa for those who lost permanent visa:

- **Normative Resolution 05**, from August 21, 1997. Concession of permanent visa or definite stay to foreigners who have lost the permanent status for being absent from the country.

The **new Bill 5.655/2009** includes a similar provision for those who had resided in Brazil as permanent residents, and have lost this condition for being absent from the country, absence justified by reasons of undergraduate or graduate studies, professional training, research or professional activity, provision of services to the Brazilian government (Art. 34.6, Bill), or absence for reasons of *force majeure* or fortuity, duly evidenced (Art. 43.1, Bill). It also includes this possibility for those who have lost their Brazilian nationality and did not want or were not able to re-acquire it, or did not choose to do so (Art. 34.2, Bill).

Permanent visa for other diverse categories:

In this section, several categories of people who can obtain a permanent visa are included:

- **Normative Resolution 27**, from November 25, 1998: temporary visa, permanent visa or permanence in cases of omissions and special situations involving foreigners.

Article 1 of Resolution 27 determines that the CNIG will analyze the special situations and the cases of omissions. By special situations, we understand those that, although not expressly defined by the CNIG resolutions, present certain elements which allow them to be considered satisfactory for the concession of a visa or permanence. In its assessment, CNIG will observe the criteria, principles and goals of the immigration, defined by the law (Art. 2, NR 27). The decisions based on this resolution do not constitute a precedent that could be invoked or form a jurisprudence for a decision of any other entity (Art. 3, NR 27).

Citizens from the Mercosur and associated States after two years, see the section on Mercosur.

Irregular immigrants in Brazil who benefitted from the amnesty granted in 2009, and who have obtained permanent residence after two years, according to Ordinance no. 1700, from July 28, 2011, which regulates the conversion of temporary to permanent residence, see the section on irregular immigration.

Argentinian citizens enjoy a more favourable provision, resulting from the Bilateral Agreement signed on November 30, 2005, and implemented in Brazil by Decree 6736 from January 12, 2009. This agreement foresees the concession of permanent visas to Argentinian citizens who hold temporary or tourist visas. In order to be granted the visa, applicants need to present certain identification documents and proof of no criminal record.

Normative Resolution 93/2010 for the victims of human trafficking. The permanent visa is granted for only one year, so the victim can, at the end of this period, express the intention to remain in Brazil if willing to collaborate with an eventual investigation (Art. 4, NR 93). This rule is maintained in the new **Bill 5.655/2009**, in Article 42. The new Bill still determines that the first residence is temporary, for one year. In case the victim wishes to collaborate with the investigation, the temporary residence may be extended for the same period, while the investigation takes place, and may eventually become permanent.



Permanent visa for family members:

These categories were already analyzed in the section on family reunification. The most relevant resolutions are:

- Normative Resolution 77, from January 29, 2008: temporary visa, permanent visa or permanence to the foreigner who is a partner, in stable union, of a Brazilian citizen, or a foreigner resident in Brazil, with no distinction of gender;
- Normative Resolution 36, from September 28, 1999: temporary visa, permanent visa or permanence, based on the family reunion of foreigner with Brazilian citizens or foreigners already residing in Brazil (amended by Normative Resolution 85 from April 14, 2010).

These categories and their conditions are established in Article 41 of the new Bill 5.655/2009, which establishes that foreigners who have a Brazilian descendant, resident in Brazil, who is under his/her custody and financial dependency, the foreigner married to a Brazilian spouse or foreign resident, from whom he/she is currently separated, effectively or legally, or the foreigner who proves a stable union with a Brazilian citizen or foreign resident, with no distinction of gender, will receive temporary residence of three years, which will allow the possibility of paid employment. At the end of this period, the visa may become permanent, if the conditions that authorized the concession of the temporary residence in the country persist.

There are also other categories in Art. 43 of the new Bill 5.655/2009 mentioned in items III (ascendant of permanent foreigner), IV (descendant of permanent foreigner) and V (sibling, grandchild or great-grandchild) (see section on family reunification).

The **conversion of temporary visas into permanent visas** is only possible for scientists, professors, technical experts or professionals from other categories, under a contractual provision or at the service of the Brazilian government (Art. 13 V of Law 6815).⁶³ It is also possible for ministers of religious entities or members of an institute of consecrated life, and of a congregation of religious order, after two years of residence (Art. 37 of Law 6815). However, these new permanent visas may be subject to the provisions of Article 18 of Law 6815, which, as previously observed, determines that the permanent visa may be conditional, for a maximum term of five years, to the exercise of a certain activity and fixed location in a certain region of the national territory. Other temporary visas are prohibited from being turned into permanent visas (Art. 38 of Law 6815).

e. Loss of European long-term residence or national permanent (or long-term) residence

In **Portugal** and **Spain**, the European long-term residence status may only be lost in the following cases (Art. 131 of Law 23/2007, Portugal, and Art. 166 of Regulation 557/2011, Spain):

- fraudulent acquisition of the status;
- an expulsion order, for representing a real and sufficiently severe threat to the public order or public safety, regardless of economic conditions. Before the decision for the expulsion of a long-term resident is taken, the following elements are taken into

⁶³ For more information on the transformation procedure, see Article 9 of Normative Resolution 74 from 2007, which concerns the procedures for the concession of work authorizations to foreigners, as well as other procedures (amended by Normative Resolution 75 from May 3, 2007, establishing a long list of requirements).

consideration: duration of residence in the territory, age of the concerned individual, consequences for this person and relatives, ties with the country of origin or the absence of ties with the country of origin. The decision for expulsion is subject to legal impeachment with a suspension effect (Art. 136, Law 23/2007);

- absence from the European Union territory for a period of six consecutive months. However, absence from EU territory for a period longer than 12 consecutive months or absence from the national territory for a period of six consecutive months, justified by specific or exceptional reasons, do not imply the loss of status, provided that the long-term resident remained in his/her country of origin in order to develop a professional or entrepreneurial activity, or activity of social or cultural nature. In the case of Spain, in order to justify the absences from the European territory for a period longer than 12 consecutive months, the long-term resident must work for a non-governmental organization, foundation or association dedicated to the cooperation to development;
- acquisition of the status in a different Member State.

On the other hand, **in Portugal**, Article 85 of Law 23/2007 refers to the cancellation of the national permanent residence. It happens if:

- its holder has been the object of a decision for expulsion from the national territory;
- the residence authorization was granted on the basis of false or deceptive documents or declarations;
- there are serious reasons to believe that the resident committed serious crimes or there are real indications that he/she intends to commit acts of this nature, within the European Union territory;
- for reasons of public order and security; or
- when the interested person, with no acceptable reasons, is absent from the country for 24 consecutive months or, for the period of three years, with ten interpolated months. The residence authorization is not cancelled for citizens who are absent for longer periods, if they prove that during their absence from the national territory they were in their country of origin, and there developed a professional or entrepreneurial activity, or activity of social or cultural nature.

The decision to cancel the residence is susceptible to legal impeachment, with a merely remanding effect, at administrative courts (Art. 85.7, Law 23/2007).

In **Spain**, national long-term residency may only be lost under the same conditions as the European long-term residence (Art. 166, Regulation 557/2011).

On the other hand, in **Brazil**, the loss of residence may occur in the hypothesis listed in Article 37 of Law 6.815/80:

- I. if the Brazilian naturalization was obtained;
- II. if an expulsion has been enacted;
- III. if the definite departure from the national territory was requested, and the right of return, foreseen in Article 51, was disclaimed; and
- IV. if the person remains absent from Brazil for a period longer than two years; and
- V. if there is a transformation of the visa.



f. Rights

In **Portugal**, Article 133 of Law 23/2007 establishes the equality of treatment between nationals and European long-term residents under the terms of the Constitution and the law, in several situations:

- **access to an independent or subordinate professional activity**, provided that such activity does not imply, even occasionally, any involvement in a position of public authority, with no prejudice of the special provision to the nationals of Portuguese official language;
- **access to employment and labour conditions**, including the conditions of remuneration and resignation;
- **professional learning and training**, including subsidies and scholarships in conformity with the applicable legislation;
- **recognition of professional certificates**, certificates and other titles, in conformity with the law;
- **social security, social assistance and social protection;**
- **fiscal benefits;**
- **healthcare;**
- **access to goods and services** and the provision of goods and services available to the public, as well as the procedures for the housing support;
- **freedom of association**, membership and adhesion to an organization representative of workers or employees, or any organization whose members dedicate themselves to certain occupations;
- **free access** to the whole national territory and also the right to move to another Member State, if certain conditions established by Articles 14 and the following of Directive 2003/109 are fulfilled;
- for the right to vote, permanent residence is not a requirement, but the interested person needs to have lived in Portugal for a number of years. In presidential and parliamentary elections, Brazilian citizens who are residents in Portugal may vote, if holders of the statute of equality for political rights, established by the Treaty of Friendship, Cooperation and Consultation. Brazilian citizens who hold the statute may also be candidates, except for the position of President, which must be contested by citizens of Portuguese origin. At the elections for Local Authority positions, Brazilian citizens and those born in Cape Verde with legal residence for more than two years can vote, as well as citizens of Argentina, Chile, Iceland, Norway, Peru, Uruguay, and Venezuela with legal residence in Portugal for more than three years. Citizens from Brazil and Cape Verde with residence in Portugal for more than four years may also be candidates.

In **Spain**, Articles 3-15 of Law 2/2009 establish the equality of treatment with nationals in several areas (see temporary residence). Besides the rights enjoyed by all non-nationals, the long-term residents are also entitled to the following rights:

- **right to public participation** (Art. 6, Law 2/2009). It is important to point out that this right includes the right to vote in the city elections. This possibility is available for nationals of certain countries that have signed agreements with Spain. In order to fulfill this right, the person needs to register and prove that he/she

has been residing in Spanish territory for a period of five years. Therefore, there is no requirement to be a permanent resident, but the person needs to have been a resident for five years;

- **right to work** (Art. 10, Law 2/2009). This right vary depending on the residence authorization. Persons with permanent residence have the same rights to work as nationals, with the exception of public employment;
- **rights related to the access to housing** (Art. 13, Law 2/2009). All regular foreigners have the right to access housing public policies, but only long-term residents enjoy the same conditions as nationals;
- **right to move to another Member State;**
- **vocational learning and training**, including subsidies and scholarships in conformity with the law;
- **recognition of professional certificates**, academic certificates and other titles, in conformity with the law;
- **social security, social assistance and social protection;**
- **fiscal benefits.**

In **Portugal**, the **rights** of persons with **national permanent residence** are established in Article 83 of Law 23/2007. The same article determines that the residence holder has the right, with no prejudice of the special dispositions and other rights disposed in the law, to:

- education and learning;
- the exercise of subordinate professional activity;
- the exercise of an independent professional activity;
- professional orientation, training, improvement and transition;
- access to healthcare;
- access to the law and the judiciary system.

The application of the provisions that ensure the equality of treatment to foreign citizens, in regards to social security, fiscal benefits, syndication, recognition of certificates and other professional titles or the access to goods and services available to the public, as well as the application of special provisions granting special rights (Art. 83.2, Law 23/2007), is also guaranteed. As has been already mentioned, the main difference is the impossibility of living in another country of the EU with the national permanent residence.

In **Spain**, the rights are the same for citizens with national long-term residence and for citizens with European long-term residence. The only difference is that citizens with national long-term residence have no right to reside in another country of the European Union.

In **Brazil**, foreigners with a permanent visa enjoy different rights than those of foreigners with temporary visas. A foreigner registered as a permanent resident, who is absent from Brazil, may return regardless of the visa within the period of two years (Art. 51, Law 6.815 and Art. 82 of the Bill 5.655/2009, which extends this term depending on certain circumstances). A foreigner registered as a temporary resident who is absent from Brazil, may only return within his/her valid period of stay in Brazil (Art. 83, Bill 5.655/2009). Only the foreigners registered as permanent residents have access to naturalization (Art. 112). Lastly, foreigners



have no right to vote in any of the country's elections.⁶⁴ The remaining rights and duties are listed in Arts. 95 to 110 of the Law (Arts. 5-8 of Bill 5.655/2009) and may be referred to in the section on temporary residence.

g. Conclusions and preliminary recommendations

After the previous analysis, the main conclusions and recommendations are the following:

In Spain and Portugal, permanent residence is a subjective right. In Brazil, only certain categories of temporary visas can be converted into permanent residence. The permanent status may only be lost as a result of the circumstances established by the law, and grants several rights, particularly the almost free access to the labour market, with the exception of public jobs in the case of Portugal and Spain. In Brazil, the rights are more limited, initially, in certain modalities of permanent residence, because it can be lost if the requirements established during the initial period, which may be up to five years, are not fulfilled.

In Spain and Portugal, the permanent status is obtained after continuous residence for a defined number of years, usually five. In Brazil, there is no rule which establishes the concession of permanent residence but, in general, in the case of the work visa, the receipt of permanent residence is already possible after the renewal of the initial stay. Besides, several permanent residences are, in reality, temporary residences subject to confirmation after the initial stay period.

It is important to have a permanent status that may be obtained after a certain number of years, because many people cannot (depending on the legislation of the country of origin, which may prohibit dual nationality) or, rightfully, do not wish to obtain nationality, but reside in a certain country for many years and wish nonetheless to establish their lives in that country. A status that grants rights and security for residents certainly facilitates the person's integration, as well as his/her contribution to society. Besides, in case of Brazil, the permanent residence is a requirement for the obtainment of Brazilian nationality.

- A final problem is that, sometimes, there is a risk of an increasing subjectivity among the governmental agencies when distinguishing who is and who is not qualified. A difficulty, for example, to define a person with "notable knowledge in his/her area of professional activity, who may provide relevant services in Brazil" (Art. 34.3 of the Bill). This highlights the importance of a subjective right to permanent residence after a number of years and the clear establishment of the categories which may obtain permanent residence before this period.
- A positive point in Brazil is that certain categories of people can directly acquire permanent residence.

4.6 Citizens under the special provision of the Mercosur Agreement and associates, or EU citizens and associates

In this section, we will analyze the special provision enjoyed by the nationals of the countries that are part of the Mercosur Agreement (Argentina, Paraguay, Uruguay and Venezuela), as well as its associate members (Chile, Bolivia, Peru, Ecuador and Colombia), and members of their families in Brazil, as well as the special provision enjoyed by the citizens of the European

⁶⁴ A proposal for a constitutional amendment is being discussed and, if approved, will grant the right to vote and be elected at the city elections for permanent residents in Brazil.

Union,⁶⁵ the European Economic Area (Norway, Iceland and Liechtenstein), Switzerland and the members of their families in Portugal and Spain. In case of Portugal and Spain, this social provision is also extended to the family members of Portuguese and Spanish citizens who live in these countries, respectively.

This section will discuss the following points: a) application scope; b) temporary residence; c) permanent residence; d) rights and restrictions; e) conclusions.

a. Application scope

Nationals from the European Union (EU), European Economic Area (EEA) and Switzerland, and family members

The European Directive no. 2004/38/EC⁶⁶ establishes the rights of the citizens of the European Union and the members of their families when they enter another State of the EU. In addition to these rights, citizens from the Member States of the European Economic Area (EEA) (Norway, Liechtenstein and Iceland)⁶⁷, as well as nationals of Switzerland, and the members of their families, enjoy a privileged legal status as a result of treaties signed between the EEA States and the EU.⁶⁸

In **Portugal**, this European Directive was implemented by the Law 37/2006, which regulates the rights of entry, stay and residence of these citizens. Ordinance no. 1334-D/2010 approves the models of registration certificates for citizens of the EU, the permanent residence document of citizens of the EU, resident card of family members of citizens of the EU and the respective fees charged for the issuance of these documents.

In **Spain**, the situation of these citizens is regulated by the Royal Decree 240/2007 from February 16, which replaces the European Directive 2004/38 and Instructions DGI/SGRJ/03/2007 and DGI/SGRJ/03/2010. The only difference is that there is a transitional provision until January 1, 2013, through which the citizens of Romania (but not Bulgaria), who enter Spain to exercise subordinate professional activity will have the normal right to immigration, which applies to the non-national citizens from countries not included in the EU.⁶⁹ According to the accession treaties of Bulgaria and Romania, during a maximum transitory period of seven years after their accession to the EU (on January 1, 2007), Member States can apply certain conditions to limit the free circulation of workers from these Member States. Portugal does not apply such transitory provisions.

⁶⁵ There are currently 27 countries in the European Union: Germany; Austria; Belgium; Bulgaria; Cyprus; Denmark; Slovakia; Slovenia; Spain; Estonia; Finland; France; Greece; Holland; Hungary; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; Poland; Portugal; United Kingdom; Czech Republic; Romania; Sweden.

⁶⁶ Directive 2004/38/EC of the European Parliament and Council from April 29, 2004, regarding the right to free circulation and residence for citizens of the Union and their family members within the Member States' territory, which amends the Regulation (EEC) no. 1612/68 and that repeals Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

⁶⁷ The Directive 2004/38 also applies to the Member States of the European Union and the States of the EEA since December 8, 2007. See the Decision of the Mixed Committee of the EEA no. 158/2007, from December 7, 2007, which amends the Annex V (Free circulation of workers), DO 2008 L 124/20.

⁶⁸ Agreement between the European Community and its Member States, on one hand, and the Swiss Confederation, on the other, about the free circulation of people, OJ 2002 L114/6; Decision of the European Council and the Commission from December 13, 1993, regarding the signing of the Agreement about the European Economic Area between the European Communities, its Member States and the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation, OJ 1994 L1.

⁶⁹ Order PRE/2072/2011, from July 22, which publishes the Agreement of the Council of Ministers which establishes the re-activation of the transitory period in regards to the free circulation of workers from Romania. Instruction DGI/SGRJ/5/2011, about the entry, stay and work regulations in Spain of the employed workers who are nationals of Romania and their family members.



Who is included in the Law?

In **Portugal**, according to the Law 37/2006, nationals from all countries of the EU who come to or live in Portugal, and their family members accompanying or reuniting with them, as well as citizens from the Member States of the EEA and Switzerland, and the members of their families, enjoy the right to enter, stay and reside in the country. These norms also apply to the relatives of citizens of Portuguese nationality, regardless of these relatives' nationality.

The law considers as relatives, the following: spouse; descendant up to 21 years of age; descendants over 21 years of age who can prove they are under custody; ascendants who depend on the right-holder (Art. 2, Law 37/2006).

In addition, the law facilitates "the entry and residence of any other relative, regardless of the nationality (...) who, in his/her country of origin, is responsible for the EU citizen bearing the main right to residence, or with whom he/she shares the same household, or when the EU citizen has to, personally and imperatively, take care of the family member for serious health reasons" (Art. 3.2, Law 37/2006).

The decision regarding the entry and residence of these family members may only "be taken after the analysis of all relevant personal circumstances, and any refusal of entry or concession of residence authorization must be well-founded" (Art. 3.3, Law 37/2006).

In **Spain**, the Royal Decree 240/2007 establishes, in Article 2, which persons enjoy the right to enter, stay and reside in the country in the same manner as the Portuguese legislation.

Citizens of the Mercosur and associated States (Bolivia, Chile, Peru, Ecuador and Colombia) in Brazil

The **Residence Agreement** for nationals of the Member States of the Mercosur (Brazil, Argentina, Uruguay and Paraguay), and the associated states Bolivia and Chile, was signed in 2002⁷⁰ and finally ratified by all Member States in 2009, when it came into force. In 2011, Peru and Ecuador acceded to the Agreement, which has been in force in Peru since June 28, 2011.⁷¹ However, Ecuador has still not incorporated it to its national legislation, therefore, it is still not implemented. On the other hand, the Andean Parliament of the Andean Community decided, in 2011, to request the formal accession of the bloc to the Agreement and, therefore, it is expected that Colombians, in addition to Ecuadorians, may also benefit from this provision in the near future (CDHIC: 2011, 37).⁷² This has already happened in the case of Colombians who enjoy the benefits of the Agreement since June 29, 2012.⁷³

This Agreement allows a person who is a national of a Member States of the Mercosur, or one of the three associated States, who wishes to reside in another Member State, to obtain legal residence in the latter upon providing proof of nationality. This means that the essential criterion to grant legal residence, which allows legal work and/or study, is solely the nationality of one of the countries in the bloc, or associated states.

⁷⁰ Agreement about the Residency for Nationals of the Southern Common Market – Mercosur, Bolivia and Chile, signed at the XXIII Meeting of the Common Market Council, in Brasilia on December 5 and 6, 2002.

⁷¹ See decision 04/2011 of the Common Market Council, Asunción, June 28, 2011.

⁷² In regards to Venezuela, its entry as a member of the Mercosur was formalized on July 31, 2012, but it does not yet apply the residence agreement.

⁷³ See decision of the Common Market Council 22/2012, Mendoza, June 29, 2012.

In Brazil, the Federal Government, on September 29 and October 7, 2009, respectively, signed the Decrees no. 6.964 and 6.975, which instituted the Agreements about the Residence for Nationals of the States of the Mercosur, as well as Bolivia and Chile (associated states).

Moreover, it has also a bilateral agreement with Argentina, from November 30, 2005, and implemented in Brazil by the Decree 6736 from January 12, 2009, through which the holders of temporary or tourist visas, or even the citizens of Argentinian nationality with irregular migration status, may obtain a permanent visa after the presentation of certain documents listed in Article 3 of the Agreement.

Who is included in the law?

All Argentinian, Paraguayan, Uruguayan, Bolivian, Chilean and Peruvian nationals may request residence in Brazil, regardless of immigration situation, regular or irregular. In case of irregular immigrants from these states in Brazil, they are exempt from fines or other administrative sanctions resulting from the migration status.

b. Temporary residence

In **Portugal**, citizens from the EU, EEA and Switzerland have the right to enter and reside in the national territory for a period of up to three months with no further condition besides the possession of a valid identity card or passport, as well as for the relatives who accompany or reunite with the EU citizen (Articles 4 and 6, Law 37/2006).

Citizens who wish to stay in the national territory for a period longer than three months must make a registration that formalizes their right to residency – Registration Certificate – within thirty days after the end of the three initial months following arrival in the national territory. The request must be presented to the City Council in the area of residence. Family members of EU/EEA/Switzerland citizens who are also nationals of those states must request the registration if they wish to stay in the country for a period longer than three months. If an EU citizen's relative, who was born in a third country, stays in the national territory for a period longer than three months, they must request the issuance of a residence card (this card is issued within a maximum of three months, counting from the date the request was made).

Any citizen from the EU has the right to reside in the national territory for a period longer than three months, if the following conditions are fulfilled:

- the exercise of a subordinate or independent professional activity in the Portuguese territory;
- the availability of sufficient resources for his/her own subsistence and that of family members, as well as health insurance, if this is a requirement in the Member State of origin for Portuguese citizens;
- be registered in a public or private educational facility, officially known, provided that the person proves, through a declaration or other means of proof chosen by the person, the possession of sufficient financial resources for his/her own subsistence, and that of family members, as well as health insurance, if this is a requirement in the Member State of origin for Portuguese citizens;
- be a family member who accompanies or is reuniting with a citizen from the EU covered by the provisions above (Art. 7.1, Law 37/2006).

In **Spain**, the regulation is the same. Citizens from the European Union who want to stay in the national territory for a period longer than three months need to register in the Foreigner



Central Register. Family members must request a card for relatives of EU citizens (Articles 6-8 of Royal Decree 240/2007).

In **Brazil**, the process to become a resident consists of the concession, by the Federal Police, of a temporary residence authorization for two years. Ninety days before the end of this term, the foreigner may solicit a conversion of status to permanent residence, upon the presentation of certain documents. In case the documents are not presented, the permanent residence is not granted and the Agreement is no longer applicable to that person.

In order to obtain temporary residence of two years in Brazil, the national from any of the Mercosur states may go to the nearest Federal Police station in Brazil or, if outside the country, to the Brazilian Consulate, and present certain documents, such as a valid passport or identity card and the respective copies; birth, marriage or naturalization certificate, if applicable; police clearance certificate, and the original receipt for the payment of applicable fees.

Article 9.2 of the Agreement also establishes the right of family members who are not nationals of any Member State to obtain a residence authorization with the same expiration as the person whom they depend on. However, the Agreement is not clear in establishing whether the family members enjoy the same rights as the citizens from the Mercosur, especially the right to work. The Agreement is also not clear in defining who is a family member. Decrees 6964 and 6975, responsible for implementing the agreements in Brazil, do not clarify these points either.

c. Permanent residence

In **Portugal**, citizens from the EU/EEA/Switzerland and their family members who are nationals of these same states, or a third state, may formalize the right to permanent residence in Portugal after five consecutive years living legally in the country, requesting a Permanent Resident Certificate (Art. 10, Law 37/2006).

In **Spain**, the regulation is identical to that in Portugal (Articles 10-11, Royal Decree 240/2007).

In **Brazil**, under the Mercosur Agreement, after two years, the temporary residence may be converted to permanent residence, upon the solicitant's presence within 90 days prior to its expiration, carrying the following documentation: temporary proof of residence, valid passport or identity card, police clearance certificate in Brazil, proof of lawful means of subsistence, as well as the subsistence of coexisting family members, and the payment of the applicable fee.

d. Rights

In **Portugal**, the citizens from the EU/EEA/Switzerland and their family members enjoy the right to exercise subordinate or independent professional activity. Moreover, they also benefit from equality of treatment with national citizens. On the other hand, there are a few limitations, such as the non-access to the solidarity system during the first three months of residence, or during a longer period, if the Union citizen entered the national territory to look for a job. The right to permanent residence is also limited, as well as scholarships, or any other type of social support for study or professional training purposes (Articles 19 and 20 Law 37/2006). Once the permanent residence is granted after five years, the right to equality of treatment is complete, and so is the access to the solidarity sub-system.



In Spain, the provision is the same (Art. 3, Royal Decree 240/2007 and Instruction DGI/SGRJ/03/2010).

In **Brazil**, the agreement assures the following rights to all migrants who are nationals of a Mercosur Member State, residing in the territory of another Member State:

- **right to exercise any activity**, independent or subordinate, under the same conditions as the nationals of the receiving country, especially the right to work, enter, stay and leave the States' territories;
- **right to family reunification**: family members who are not nationals of one of the Member States may request residence with the same expiration as the residence of the person on whom they depend, provided that they present the required documentation as proof of family relationship, and there are no obstructions;
- **right to equality of treatment**: immigrants will enjoy an equally favourable treatment in the Member States' territories to the treatment offered to the nationals of the receiving country, with regard to the application of the labour law, particularly in relation to wages, work conditions and social insurances. It is also important to mention the Multilateral Security Agreement of the Mercosur, in force in Brazil through the Decree 5722/2006;
- **right to transfer remittances**: right to freely transfer personal revenue to the migrant's country of origin;
- **rights of migrant children**: they enjoy, within the territory of the states, the fundamental right to education, in conditions equal to those of the nationals of the receiving country. This access cannot be denied or limited due to an irregular migration status of the parents.

e. Restrictions

In **Portugal**, "the right to free circulation and residence to the citizens of the EU and their families, regardless of nationality, can only be restrained for reasons of public order, public security or public health" (Art. 22 of Law 37/2006). However, there are limitations to this article:

- these reasons cannot be evoked for economic purposes;
- any measures taken must be in conformity with the principle of proportionality and must be based, exclusively, on the behaviour of the interested person, which must constitute a real, current and sufficiently severe threat that can affect a fundamental interest of this society, therefore, any justification unrelated to the individual case or based on general prevention reasons cannot be used;
- the existence of previous criminal convictions cannot, per se, serve as a foundation for the measures mentioned in the previous item.

In addition, Article 23 of Law 37/2006 establishes that: "Before adopting a decision of alienation from the territory for reasons of public order or public safety, the duration of the residence of the interested citizen in the national territory, his/her age, health, family and economic situation, the social and cultural integration in the country, and the relevance of the ties with the country of origin must be all taken into consideration."

Citizens of the EU and their family members who have the right to permanent residence enjoy a superior protection, as they can only be alienated from the Portuguese territory for compelling reasons of public order or public security (Art. 23.2 of Law 37/2006). Those who



have lived in Portugal during the preceding ten years, or minors, can only be alienated by imperative reasons of public safety (Art. 23.3 of Law 37/2006).

“The person who was the target of an entry ban for reasons of public order or public safety may present a request for the ban’s cancellation after a reasonable period, as a result of the circumstances and, in every case, three years after the definite decision for the prohibition has been legally taken” (Art. 27.1 of Law 37/2006).

In **Spain**, the regulation is similar and there is no substantial difference (Arts. 15-18, Royal Decree 240/2007).

In **Brazil**, as mentioned earlier, the person is required to prove a clean criminal record to enjoy the right to residence.

f. Conclusions

As regards the regulations for citizens of the EU, the countries of the EEA and Switzerland, **Portugal** and **Spain** are mandated by the European Law, namely Directive 2004/38, and have identical regulations. These citizens and their family members enjoy virtually the same rights as the nationals from Portugal and Spain. The only differences are that they can be expelled from the territory for reasons of public order, public safety or public health, and have incomplete access to the solidarity sub-system. Once they receive permanent residence after five years, it is more difficult to be expelled, and there is full access to the social assistance system of the host country.

On the other hand, the citizens from the Mercosur and associated states have a facilitated right to enter Brazil for the first two years because they do not need to demonstrate means of subsistence to obtain temporary residence. However, after these two years, they must demonstrate lawful means of subsistence to obtain permanent residence. It is important to point out that, in cases where permanent residence is not granted, the person is subject to the national immigration legislation, and not the Mercosur Agreement. This is a very important difference from the European Union’s regulations.

Lastly, an important point to clarify in the legislation is the people who are included as family members, and the rights to which they are entitled.

4.7 Nationality: Acquisition of nationality based on the desire for residence

In this section of the report, we will analyze the acquisition of nationality based on will, and we will focus on naturalization through residence, given that this is the most common form of nationality acquisition for first generation migrants (Bauböck et al.: 2006, 26). We will not focus on the acquisition of original nationality, except for the children of foreign citizens born in the territory.

Legal equality and political participation depend on the access to nationality. This is why democratic countries should give immigrants the possibility of naturalizing, as these countries have a vital interest in encouraging this process because common citizenship provides a point of reference for solidarity in societies comprised of people from different origins (Bauböck et al.: 2006, 33).

This section will discuss the following points: a) introductory aspects; b) requirements for the acquisition of nationality through residence; c) other relevant cases for the acquisition



of nationality; d) plurality of nationalities; e) rights; f) conclusions and preliminary recommendations, considering other comparative studies about Europe.

a. Introductory aspects

In **Portugal**, the last nationality law – Organic Law 2/2006, from April 17 – entered into force on December 15, 2006, and brought important innovations to the regulation of attribution and acquisition of Portuguese nationality. The most important alteration is the reinforcement of the *ius soli* principle (right of the soil), and the recognition, in several situations, of the subjective right to naturalization. Therefore, the person who fulfills these legal requirements will obtain the nationality. In general, the acquisition of Portuguese nationality was facilitated, among other circumstances, by the following:

- Reduction of the time required for residence, from ten to six years. Prior to the amendment, only nationals from Portuguese-speaking countries could apply for nationality after six years of residence.
- Equivalence between *de facto* union and marriage, for the purpose of the nationality request, on behalf of the foreigner resident who lives with a national citizen, if legally recognized.
- Exclusion of the requirement of sufficient means of subsistence in order to obtain nationality through naturalization.
- Limitation of the subjectivity of authorities around the definition of certain conditions that are not very clear in the previous law.

These changes encouraged an increase in the number of requests for attribution and acquisition of nationality, from 3,082 in 2005 to 4,149 in 2006, 8,970 in 2007 and 34,568 in 2008. From these requests, 1,432 and 6,449 were made by Brazilian citizens in 2007 and 2008, respectively (Piçarra and Gil: 2010, 13-14). In any case, these figures refer to all the requests for attribution and acquisition of nationality, and not only naturalizations for residence. It is not easy to find data on nationality, however. Some of the recent data was collected from the press.⁷⁴

In **Spain**, the acquisition of Spanish nationality is regulated especially by Article 11 of the Spanish Constitution from 1978 (CE), articles 17-26 of the Civil Code (CC), articles 220-237 of the Civil Registry Regulation (RRC) and the Instruction of the Civil, Registry General Direction from July 26, 2007. This regulation has not been amended in recent years. However, the number of people acquiring Spanish nationality by residence has consistently increased in the last ten years, as evidenced by the analysis of the data available until 2011.

Table 1 – No. of nationality requests granted in Spain (2001-2011)

2001	2002	2003	2004	2005	2006	2007	2008	209	2010	2011
16,743	21,805	26,556	38,335	42,829	62,339	71,810	84,170	79,597	123,721	114,599

Source: Plan Estadístico Nacional 2009-2012, Permanent Immigration Observatory, Concessions of Spanish nationality by residence.

⁷⁴ http://www.publico.pt/Sociedade/aquisicao-de-nacionalidade-portuguesa-quadruplica_1423039
This text states, for example, that “there are almost one hundred thousand new Portuguese citizens since the Nationality Law had entered into force, at the end of 2006.”



Of the total persons who obtained Spanish nationality between 2001 and 2011, 5,759 were Portuguese and 9,911 Brazilian (Plan Estadístico Nacional 2009-2012, Permanent Immigration Observatory).

In **Brazil**, the acquisition of Brazilian nationality is currently regulated by Law 6.815, from August 19, 1980, which defines the legal situation of the foreigner in Brazil (Law) and Decree 86.715 from December 10, 1981, which regulates the Law 6.815 (Regulation). We will also refer to the new Bill of the new Foreigner Statute (Bill 5.655/2009). The acquisition of original nationality is regulated by the Constitution of 1988.

The most important amendments by the new Bill 5.655/2009 in this area are the following:

- Increase of the required duration of residence, from four to ten years; a reduction to five years being possible in certain specific situations.
- Regulation of the extraordinary nationality. The project maintains the term of fifteen years for the request.
- Reduction of the duration of residence required for nationals of Portuguese-speaking countries residing in Brazil.

Thus, the new Bill changes the residence period necessary for the acquisition of Brazilian nationality and does not recognize a subjective right to naturalization (CDHIC: 2011, 28). Data on nationality is not easily found, but the number of naturalization requests has been significantly low in the last years, especially when compared with Portugal and Spain.

Table 2 – No. of naturalization requests in Brazil (2004-2007)

Year	2004	2005	2006	2007
Naturalization requests	2,354	2,567	2,149	1,432

Source: Annual Activities Report 2008, Federal Police Department, Brasília – DF, December 31, 2008.

b. Acquisition by naturalization

In **Portugal**, the persons who fulfill the following requirements may acquire Portuguese nationality through naturalization by residence (Art. 6, Law 2/2006):

- Be over 18 years of age or legally emancipated in keeping with Portuguese law.
- Have been legally residing in Portuguese territory for at least six years.
- Have sufficient knowledge of the Portuguese language. Sufficient knowledge in Portuguese means the level A2 of the European common table of reference for languages, which corresponds to a basic speaker (Art. 1 (2), Ordinance 1403-A/2006).
- Have a clean criminal record, with no conviction or sentence for the practice of a crime punishable with imprisonment for a period equal or up to three years, according to Portuguese law. Still, for solicitants who have been convicted of crimes with penalty, or penalties, between one to three years in prison, a waiting period of five years is imposed before the person can acquire the Portuguese nationality.⁷⁵

⁷⁵ See Claire Healy (2011), *Cidadania Portuguesa: A Nova Lei de Nacionalidade de 2006*, Immigration Observatory, ACIDI, Lisbon, p. 74, available at: http://www.oi.acidi.gov.pt/docs/Estudos_OI/Estudo45_WEB.pdf

In **Spain**, the main path for the acquisition of Spanish nationality by naturalization is through residence (Art. 22, CC). The requirements are the following:

- Legally reside in the Spanish territory during the following period:
 - » ten years as the general rule;
 - » five years in cases where the non-national has attained the status of refugee;
 - » two years for the nationals of Ibero-American countries (including, therefore, Brazil), Andorra, Philippines, Equatorial Guinea, Portugal and members of the Sephardic Jewish community;
- The person must demonstrate “good civic behaviour” and “sufficient level” of integration into the Spanish society (Art. 22.4, CC).
- The person must renounce the former nationality (Art. 23, CC). However, nationals from the Ibero-American countries, therefore Brazil, and including Andorra, Philippines, Equatorial Guinea or Portugal do not need to renounce the former nationality. It is important to mention that the duty to renounce the nationality is only declarative, as the person does not need to produce any documentation stating that the former nationality is annulled. On the contrary, the Spanish administration does not request any information or evidence about the country of former nationality (Wallace Goodman: 2010, 10).

From this list, two requirements deserve more detailed analysis. “Good civic behaviour” has been generally understood as the absence of a criminal record (point 3.3 Instruction, July 23, 2007), but there are cases in which, even when the criminal record is not impeccable, it is possible to acquire the nationality (Rubio Marín and Sobrino: 2010, 17).

“Sufficient level of integration into the Spanish society” has been understood as the knowledge of Spanish or any other official language in Spain, as well as any other adaptation circumstance to the culture and lifestyle of Spanish citizens, such as studies or voluntary or social activities. The person also needs to prove that he/she wishes to reside permanently in Spain and has the sufficient means of subsistence (Art. 220, RRC). The judge on duty at the Civil Registry will have to consider these points when interviewing the solicitant. In general, the knowledge of the Spanish language is sufficient (Álvarez Rodríguez: 2009, 40).

Finally, when the person fulfills the requirements, he/she has, at first, the right to acquire nationality. However, Article 21 of the CC establishes that the Ministry of Justice may deny nationality for reasons of public order or national interest. It is possible to appeal against this decision at the Administrative Litigation Room of the National Hearing.

In **Brazil**, the Ministry of Justice (Department of Foreigners) is responsible for naturalization requests. As already mentioned, there is no subjective right to naturalization, as this is considered a faculty exclusive to the Executive Power (Art. 111, Law 6.815; Art. 86, Bill 5.655/2009, which establishes the responsibilities of the Ministry of Justice). However, Article 121 of Law 6.815 (Art. 97 of the new Bill) points out that the “compliance with the conditions defined in this Law does not guarantee the foreigner the right to naturalization.”

Article 112 of Law 6.815 establishes the conditions for the concession of naturalization. This type of naturalization is regulated by Article 87 of the Bill (ordinary naturalization) and extends the residence period from four to ten years. The conditions that the applicant must fulfill are the following (Art. 112, Law 6.815):

- civil capacity, according to the Brazilian legislation;



- be registered as a permanent resident in Brazil (see section on permanent residence above);
- continuous residence in the national territory for a minimum period of four years, immediately prior to the naturalization request (increased to ten years in the Bill);
- read and write the Portuguese language, taking into consideration the living conditions of the solicitant;
- exercise of a profession or proof of sufficient resources for his/her maintenance, as well as their families' maintenance;
- clean criminal record;
- non-existence of a complaint, sentence or conviction in Brazil, or abroad, for intentional crime punishable with a minimum sentence of more than one year in prison;⁷⁶
- good health: a proof of good health will not be required, however, for any foreigner who has resided in Brazil for more than two years. This rule is excluded from the new Bill.

Regarding the requirement for a continuous residence of four years for the concession of naturalization, Article 119.3 of Decree 86.715, which regulates the Law, determines that "travelling to other countries, if proven for relevant purposes, will not prevent the concession of naturalization, at the Ministry of Justice's discretion, and if the total period of absence does not exceed 18 months." This is more clearly regulated in Article 87.2 of the new Bill 5.655/2009, which establishes that "the residence is considered continuous and uninterrupted if the sum of the absence periods of the foreign person from the national territory does not exceed 600 alternate days, and sixty five consecutive days, except if reason of *force majeure* or fortuity, duly evidenced."

Finally, Article 120 of Law 6.815 establishes that the naturalization process can be contested during its course, if duly evidenced (Art. 94 of the Bill 5.655/2009). This is an exclusive characteristic of Brazil, as there is no such rule in the Spanish or Portuguese legislation, nor in any other European country's law.

c. Other important cases of nationality acquisition

There are also other cases in **Portugal**, such as:

- minor, or incapable, children of a mother or father who acquired Portuguese nationality (Art. 2, Law 2/2006);
- in case of marriage or *de facto* union with a Portuguese national, legally recognized, after three years (Art. 3, Law 2/2006);
- foreign minor fully adopted by a Portuguese citizen (Art. 5, Law 2/2006);
- minor born in Portugal, if he/she has concluded the first cycle of elementary school, or one of the parents reside legally in Portugal for five years. The minor must know the Portuguese language and must not be convicted of any crime punishable with a sentence equal to or greater than three years, according to Portuguese law (Art. 6.2, Law 2/2006);

⁷⁶ This is amended in the new Bill 5.655/2009, in Article 87 VII: "not be currently responding to a criminal case, nor have been convicted of an intentional crime, in Brazil or abroad."

- foreigners who have provided, or are called upon to provide, services relevant to the Portuguese State, or to the national community (Art. 6.6, Law 2/2006);
- Art. 6.5 of Law 2/2006 provides a discretionary power to the State for the concession of Portuguese nationality to the children of undocumented immigrants, provided that the child was born in Portugal, and has lived there for at least ten years, even if unauthorized;⁷⁷

Article 1 of Law 2/2006 is also important because it establishes who is originally Portuguese. For the purpose of our study, it is important to know that persons born in the Portuguese territory who are children of foreigners will be originally Portuguese, if at least one of the parents was born in Portugal and is a resident in the country. Therefore, in case of third generations, the acquisition of Portuguese nationality is almost automatic.

In **Spain**, the following categories have to reside only for a period of one year in order to request the naturalization by residence (Art. 22, CC):

- be born in Spain;
- be married to a Spanish citizen for sufficient time to request naturalization, and not be legally or effectively separated;
- be born outside Spain, but have a mother/father or a grandmother/grandfather who was originally Spanish.

Article 17 of the Civil Code is also important, because it establishes who is originally Spanish. The situation is similar in Portugal, as persons born in Spain who are children of foreigners will be of Spanish origin if at least one of the parents was also born in Spain. However, in the case of third generations, the acquisition of Spanish nationality is automatic.

In **Brazil**, there are a few categories of people who may get naturalized after one year of residence (Art. 113, Law 6.815), if the solicitant fulfills the following conditions:

- have a Brazilian child or spouse;
- be the child of a Brazilian citizen;
- have provided or be able to provide services relevant to Brazil, at the Ministry of Justice's discretion.

The required duration of residence increases to five years in the new Bill 5.655/2009 (Art. 87).

The law also establishes the possibility of reducing the term to two years in those cases where naturalization is recommended because of the person's professional, scientific or artistic capacity. Lastly, in cases of people who have made an important investment, specified in Art. 113. V. of Law 6.815, the term is three years. This term was also increased to five years in the new Bill 5.655/2009, and the possibility for the concession of nationality to the nationals from Mercosur States, or associate states, after five years is also included (Art. 87, Bill 5.655/2009).

Furthermore, the new Bill includes in Article 87 the possibility for the nationals from Portuguese-speaking countries to obtain Brazilian nationality after one year, if the civil capacity and a good social precedent are proven.

⁷⁷ "The Government may grant nationality by naturalization, with the exemption of the requirement established in the subheading *b*) of no. 1, to the individuals born in the Portuguese territory, children of foreigners, who have remained in the territory for the ten years immediately prior to the request."



Finally, the Constitution establishes, in Article 12, that native Brazilians are those persons born in the Federative Republic of Brazil, even when children of foreign parents, provided that these parents are not in the service of their countries of origin. In this case, therefore, the *jus soli* principle is applied.

d. Plurality of nationalities

The **Portuguese** legislation admits the plurality of nationalities. Thus, an individual may retain one or more nationalities. The acquisition of Portuguese nationality may imply the loss of the original nationality only if the legislation in the country of origin determines such by prohibiting dual nationality. In this case, it will be necessary to renounce the original nationality in order to obtain the Portuguese nationality (this is the case of immigrants from Ukraine or China in Portugal, for example).

In **Spain**, the legislation does not admit the plurality of nationalities, except in case of nationals from Ibero-American countries including, therefore, Brazil, plus Andorra, Philippines, Equatorial Guinea and Portugal. Thus, an individual may hold one or more nationalities besides the Spanish nationality, if originally from one of these countries. As explained before, the renunciation of the former nationality is only declarative and the person does not need to produce any document declaring that the former nationality has been effectively annulled, which implies that the plurality of nationalities is *de facto* allowed in Spain.

In **Brazil**, there is no restriction with regard to multiple nationalities of Brazilians who have an original foreign nationality, by birth or descent. Therefore, every individual who, at the moment of birth, already holds the right to a citizenship other than the Brazilian citizenship will be able to keep it. Consequently, Brazilian citizens who acquire foreign nationality throughout their lives, by marriage or immigration, among other reasons, cannot have dual nationality, except in the cases where there is an imposition for naturalization from the foreign state as a condition for permanence in the foreign country, or for the exercise of civil rights.

e. Rights of the naturalized person

In **Portugal**, the naturalized person enjoys all of the civil and political rights, except the possibility of becoming the country's President, a right that Article 122 of the Constitution concedes exclusively to Portuguese natives.

In **Spain**, the naturalized person enjoys all civil and political rights, and there are only a few differences with regard to the loss of nationality.

In **Brazil**, the naturalized person enjoys all civil and political rights, except the ones determined by the Federal Constitution as exclusive to native Brazilians (Art. 122, Law 6.815). The Constitution establishes, in Article 12.3, that the positions of President and Vice-President; President of the House of Representatives; President of the Federal Senate; Minister of the Supreme Court; diplomats; officials of the Armed Forces and Minister of Defence are exclusive to natives of Brazil. Besides these positions, Article 222 of the Constitution establishes that the proprietorship of news agencies and telecommunications companies is exclusive to Brazilian natives or persons who have been naturalized for more than ten years. Outside of these constitutional hypotheses, the distinction between native and naturalized Brazilians is prohibited by Article 12 of the Federal Constitution.



f. Conclusions and recommendations

In order to conclude this final analysis, we will also make use of the data obtained from other studies that have compared the regulations of several European countries (Bauböck et al: 2006; Wallace Goodman: 2010; Huddleston et al: 2011). We will refer to the following aspects: period and type of residence, residence period for nationals from certain countries and those married to nationals from that country, discretionary clauses, and other important elements.

Period and type of residence

The residence period in each of the three countries varies between ten years as a general rule in Spain (two years for certain countries, including Brazil and Portugal), six years in Portugal and four years in Brazil. However, the Brazilian case differs from the Spanish and Portuguese cases because the person needs a permanent residence to request nationality, and the access to permanent residence is limited by the Law (see section on permanent residence above). The new Bill 5.655/2009 extends the residence period to ten years.

A look into the comparative legislation shows that, from the 32 countries analyzed by Wallace Goodman (2010, 7), a great majority (25 countries, or approximately 80%) requests eight years of residence or less. From these 31 countries, only five (Bulgaria, Czech Republic, Greece, Latvia and Poland) require that the years of residence be lived as a permanent resident (Wallace Goodman: 2010, 8).

Table 3 – No. of years of residence required for the obtainment of nationality in European countries (2012)

European Country	Residence Period
Belgium (1)	3
Ireland (1)	4
Bulgaria, Croatia, Czech Republic, France, Latvia, Holland, Malta, Poland, Sweden, Turkey, United Kingdom (11)	5
Finland, Portugal (2)	6
Greece, Iceland, Luxembourg, Norway (4)	7
Cyprus, Estonia, Germany, Hungary, Romania, Slovakia (6)	8
Denmark (1)	9
Italy, Lithuania, Moldova, Slovenia, Austria, Spain (6)	10
Switzerland (1)	12
Total	31

Source: Elaborated by the authors, from the data from Wallace Goodman, 2010.

Comparative studies in Europe recommend short periods of residence: five years in general, for the majority of naturalization requests. Some countries in Europe (Belgium and Ireland, with three and four years, respectively), and some examples outside Europe, require less than five years (Argentina: two years, Canada: three). The short periods of residence are positive in the sense they reduce the risk of creating large and relatively stable groups of 'second-class' citizens (Bauböck et al: 2006, 26-27). Greece and Portugal have both, for example, reduced the required duration of residence from ten years to seven, in the last few years (Wallace Goodman: 2010, 7).



It is also important to mention that Brazil is the only one of the three countries that recognizes the nationality of every person born in its territory (*ius soli*).

Residence period for nationals of certain countries, and married to a national

Spain requires a longer period of residence among the three countries. However, it significantly reduces this term for a large number of non-nationals (those who are citizens of Ibero-American countries). In any case, this rule constitutes an act of discrimination against other important communities of migrants in Spain, such as the Moroccans or the Chinese, who numbered, respectively, 801,690 and 167,345 on December 31, 2011 (Permanent Immigration Observatory: 2011).

Brazil has also included a reduction in the duration of residence necessary for the nationals of certain countries in the Bill 5.655/2009 (Mercosur nationals and nationals of Portuguese-speaking countries). This difference disappeared in the last law signed in Portugal. These differences are also common in several countries in Europe, such as Italy, for example. However, specialists recommend that they be kept in check, given that these preferences may create feelings of discrimination in the long run (Bauböck et al: 2006, 30).

With regard to the residence period for persons married to nationals, most European countries have shorter periods of residence for this category, and 18 of the 31 countries studied require a period of three years or less (Wallace Goodman: 2010, 29).

Discretionary clauses

The inclusion of unclear clauses represents, besides the comparative studies, a significant problem due to the insecurity it may generate. Therefore, clear definitions are recommended about the clauses regarding the personal integrity of solicitants (Huddleston et al: 2011, 22; Bauböck et al: 2006, 28) and also about those clauses referring to the person's integration into the receiving society (Bauböck et al: 2006, 30). Thus, the lack of transparency in certain clauses, such as "good civic behaviour," "sufficient level of integration," "good precedent" could be limited, following the example of the Portuguese legislation in 2006.

Other important elements

As shown in the table below, there are other three significant elements, such as the plurality of nationalities and the rights of the naturalized person in comparison with those of original nationals.

The acceptance of the plurality of nationalities is becoming the norm in Europe (Huddleston et al: 2011, 22) and there are several countries that have accepted dual nationality in recent years, such as Italy (1992), Sweden (2001), Finland (2003) and Luxembourg (2008). Studies recommend tolerance of dual nationalities; it encourages the naturalization of the first generation of non-nationals, who do not need to renounce the original nationality (Bauböck et al: 2006, 445).

Lastly, it is important to highlight that, with the exception of Sweden and its public referendums, the naturalization process does not generally include the participation of the public (Wallace Goodman: 2010, 3). In this sense, the possibility of the people protesting naturalization processes, which are guaranteed by the Brazilian law, may be problematic from the perspective of the legal certainty of the person.



Table 4 – Comparison between Brazil, Portugal and Spain

Item	Country		
	Brazil	Portugal	Spain
Time of residence – general rule	Four years, to be registered with permanent residence (ten years in the new project)	Six years	Ten years
Time of residence reduced for certain nationals	No. In the new Bill, one year for nationals of Portuguese-speaking countries; five years for nationals of Mercosur and associate states.	No	Two years for nationals of Ibero-American countries, Portugal and others.
Time of residence for person married to national	One year (five in the new Bill)	Three years (also if de facto union)	One year
Unclear discretion, requirements	Yes. Example: “good precedence”	No	Yes. Example: “good civic behaviour” or “insufficient level of integration into the Spanish society”
Subjective right	No. The concession is an exclusive responsibility of the Executive Power, no possibility of impeachment by the people.	Yes	Not complete. Ministry of Justice may overrule for reason of public order or national interest.
Plurality of nationalities	Yes, in numerous cases	Yes	Only for nationals of certain countries, but there is no control of other nationals
Limitation of rights for the naturalized person	Yes. Impossibility of applying for public positions of reference, diplomatic careers, or Armed Forces officials.	Yes. Impossibility of being the country’s President.	No. Some small differences regarding the loss of nationality.

Source: Prepared by the authors



REFERENCES

Books and Articles

Acosta Arcarazo, Diego (2012) *'En Attendant Godot' or the EU Limits to Integration Conditions*, in Pascouau, Y. and Strik, T. (eds) (2012) *Which Integration Policies for Migrants? Interaction between the EU and its Member States*, Wolf Legal Publishers, Nijmegen, pp. 153-170.

Acosta Arcarazo, Diego (2011) *The Long-Term Residence Status as a Subsidiary Form of EU Citizenship. An Analysis of Directive 2003/109*, Martinus Nijhoff, Leiden/Boston.

De Almeida, Paulo Sérgio (2009), "Conselho Nacional de Imigração (CNIg): Políticas de Imigração e Protecção ao Trabalhador Migrante ou Refugiado," *Refúgio, Migrações e Cidadania*, Caderno de Debates 4, pp. 15-26.

Álvarez Rodríguez, Aurelia (2009), *Cuestionario Práctico sobre Nacionalidad Española*, Eolas ediciones, Librería Universitaria de León.

Arango Joaquín and Claudia Finotelli (2009), "Spain," em Martin Baldwin-Edwards e Albert Kraler (eds), *Regime Regularisations in Europe. Study on Practices in the Area of Regularisation of Illegally Staying Third-Country Nationals in Member States of the EU. Appendix A. Country Studies*, ICMPD, Vienna, pp. 83-93.

Bauböck, Rainer, Eva Ersbøll, Kees Groenendijk and Harald Waldrauch (eds.) (2006), *Acquisition and Loss of Nationality. Policies and Trends in 15 European Countries, Summary and Recommendations*, available at: http://www.eif.oeaw.ac.at/downloads/projekte/NATAC_summary.pdf

Baldwin Edwards, Martin and Albert Kraler (2009), "Regime. Regularisations in Europe. Final Report," ICMPD, Vienna.

Centro de Direitos Humanos e Cidadania do Imigrante (CDHIC) (vários autores) (2011), *Brasil Informe sobre a Legislação Migratória e a Realidade dos Imigrantes*, CDHIC, Sao Paulo.

Donaire Villa, Francisco Javier (2012) "Derechos y Libertades de los Extranjeros," en Diego Boza Martínez, Francisco Javier Donaire Villa and David Moya Malapeira, *La Nueva Regulación de la Inmigración y la Extranjería en España. Régimen Jurídico tras la LO 2/2009, el Real Decreto 557/2011 y la Ley 12/2009*, Tirant Lo Blanch, Valencia, pp. 85-140.

Fundamental Rights Agency (FRA) (2011), *Fundamental Rights of Migrants in an Irregular Situation in the European Union*, FRA, Vienna.

Healy, Claire (2011), *Cidadania Portuguesa: A Nova Lei de Nacionalidade de 2006*, Observatorio da Imigração, ACIDI, Lisboa, p. 74, available at: http://www.oi.acidi.gov.pt/docs/Estudos_OI/Estudo45_WEB.pdf

Huddleston, Thomas, Jan Niessen with Eadaoin Ni Chaoimh, Emilie White (2011), *Migrant Integration Policy Index III*, British Council e Migration Policy Group, Brussels.

Padilla, Beatriz (2007), "Acordos Bilaterais e Legalização: O Impacte na Integração dos Imigrantes Brasileiros em Portugal," em Jorge Macaísta Malheiros (organizer) *Imigração Brasileira em Portugal*, Observatório da Imigração, Lisbon, pp. 217-226.



Peers, S., Guild, E., Acosta Arcarazo D., Groenendijk, K. and Moreno-Lax V. (2012), *Immigration Law (Text and Commentary)*, Second Revised Edition, Martinus Nijhoff, Boston/Leiden.

Peixoto, João, Catarina Sabina and Alexandre Abreu (2009), "Immigration Policies in Portugal: Limits and Compromise in the Quest for Regulation," *European Journal of Migration and Law* 11, pp. 179-197.

Piçarra, Nuno and Ana Rita Gil (2010), "Country Report: Portugal," *EUDO Citizenship Observatory*, available at: <http://eudo-citizenship.eu/docs/CountryReports/Portugal.pdf>

Rubio Marín, Ruth and Irene Sobrino (2010), "Country Report: Spain," *EUDO Citizenship Observatory*, available at: <http://eudo-citizenship.eu/docs/CountryReports/Spain.pdf>

Sabino, Catarina, Abreu, Alexandre and Peixoto, João (2010) "The Making of Policies of Immigration Control in Portugal," *SOCIUS Working Papers* no. 2.

Sbalqueiro Lopes, Cristiane María (2009), *Direito de Imigração - O Estatuto do Estrangeiro em uma Perspectiva de Direitos Humanos*, Nuria Fabris Editora, Porto Alegre.

Wallace Goodman, Sara (2010) "Naturalization Policies in Europe: Exploring Patterns of Inclusion and Exclusion," *EUDO Citizenship Observatory*, available at: <http://eudo-citizenship.eu/docs/7-Naturalisation%20Policies%20in%20Europe.pdf>

Other documents

Anuario Estadístico de la Inmigración 2009, Permanent Immigration Observatory.

Permanent Immigration Observatory, Extranjeros Residentes en España a 31 de Diciembre 2011.

Report of the Commission to the European Parliament and Council about the application of Directive 2003/109/CE regarding the status of nationals from third countries who are long term residents, COM (2011) 585 - end, Brussels, 9/28/11.

Legislation

European

Directives

Directive 2009/50/EC of the European Council from May 25, 2009, regarding the conditions of entry and residence of third country nationals for highly qualified employment purposes.

Directive 2008/115/EC of the European Parliament and Council from December 16, 2008 regarding the norms procedures common to Member States for the return of third country nationals in irregular situation.

European Directive 2005/71/EC regarding a specific procedure for the admission of third country nationals for scientific investigation purposes.

Directive 2004/38/EC of the European Parliament and Council, from April 29, 2004 regarding the right to free circulation and residence of citizens of the European Union and the members of their families in the Member States territory, which alters Regulation (EEC) no. 1612/68 and revokes Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.



European Directive 2003/109 from November 25, 2003, regarding the status of third country nationals who are long term residents.

Directive 2003/86/EC of the European Council from September 22, 2003, regarding the right to family reunification.

Other decisions and agreements

Decision of the Mixed Committee of the EEA no.° **158/2007, from December 7, 2007, which** amends the Annex V (Free circulation of workers), OD 2008 L 124/20.

Agreement between the European Community and its Member States, on the one hand, and the Swiss Confederation on the other about the free circulation of people, OJ 2002 L114/6.

Decision about the Council and Commission from December 13, 1993, regarding the Agreement about the European Economic Area between the European Community, its Member States and the Republics of Austria, Finland, Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation, OJ 1994 L1.

MERCOSUR

Agreement On the Residence of Nationals of the Member States of the Southern Common Market – Mercosur, Bolivia and Chile, signed at the XXIII Meeting of the Common Market Council, in Brasília, on December 5 and 6, 2002.

Portugal

Laws and Decrees

Regulatory Decree 84/2007 from November 5, which regulates the Law 23/2007.

Law 23/2007 from July 4. It approves the legal provision for the entry, permanence, departure and alienation of foreigners from the national territory DL nº 237-A/2006, from December 14. New Regulation of Portuguese Nationality.

Law 37/2006, from August 9th: It regulates the exercise of the right to free circulation and residence of European Union citizens and the members of their families in the national territory, and transpose to the internal legal order the Directive no. 2004/38/EC, of the European Parliament and Council, from April 29.

Organic Law 2/2006, from April 17 (nationality). Fourth amendment to the Law 37/81, from October 3.

Regulatory Decree 6/2004, from April 26, which regulates the new legal provision for the entry, permanence, departure and alienation of foreigners from the Portuguese territory of the DL no. 244/98, from August 8, with the new text conceded by DL no. 34/2003, from February 25.

Decree-Law 2001 no. 4/2001 from January 10, alters the Decree-Law 244/98, from August 8, which regulates the conditions of entry, permanence, departure and alienation of foreigners from the national territory.

Law 1996 no.17/96 from May 24. It establishes an extraordinary regularization process for immigrants in irregular situation.

Decree-Law 212/92 from October 12, which regulates the situation of irregular immigrants.



Ordinances, orders, circulars and agreements

Ordinance no. 60/2011 from February 2. Language test.

Ordinance no. 1334-D/2010 from December 31.

Information Circular no. 12/DQS/DMD/07.05.09, issued by the General Health Directorship.

Ordinance 1403-A/2006, from December 15. Portuguese language test.

Agreement between the Federative Republic of Brazil and the Portuguese Republic on the Reciprocal Hiring of Nationals, signed on July 11, 2003.

Order no. 25 360/2001, Ministry of Health.

Non-legislative:

II Plan for the integration of immigrants for the years 2010-2013, adopted by the Resolution of the Council of Ministers 74/2010.

Spain

Constitution, Codes, Laws and Royal Decrees.

Royal Decree 16/2012 from April 20, of urgent measures to guarantee the sustainability of the National Healthcare System and improve the quality and safety of its services.

Royal Decree 557/2011, through which the Regulation of the Organic Law 4/2000 about the Rights and Freedoms of foreigners in Spain and their social integration is approved, after its reform by Organic Law 2/2009.

Organic Law 2/2009 (Organic Law 4/2000, from January 11, on the rights and freedoms of foreigners in Spain and their social integration (*BOE no. 10, from January 12*), in its text given by the Organic Law 8/2000, from December 22 (*BOE no. 307, from December 23*), by the Organic Law 11/2003 from September 29 (*BOE no. 234, from September 30*), by the Organic Law 14/2003 from November 20 (*BOE no. 279, from November 21*) and by the Organic Law 2/2009 from December 11 (*BOE no. 299, from December 12*).

Royal Decree 240/2007, from February 16 on the entry, free circulation and residence of citizens from the Member States of the European Union and the European Economic Area in Spain.

Royal Decree 2393/2004, from December 30, which approves the Regulation of the Organic Law 4/2000, from January 11, on the rights and freedoms of foreigners in Spain and their social integration.

Royal Decree 142/2001, from February 16, which establishes the requirements for the regularization predicted by the fourth transitory disposition of Organic Law 8/2000, from December 22, which amends Organic Law 4/2000, from January 11, on the rights and freedoms of the foreigners in Spain and their social integration.

Royal Decree 155/1996, from February 2, which approves the Regulation of Execution of the Organic Law 7/1985.

Organic Law 7/1985, from July 1, on the Rights and Freedoms of foreigners.

Spanish Constitution of 1978.



Spanish Civil Code.

Decree of November 14, 1958, which approves the Regulation of the Civil Register Law.

Instructions, orders and resolutions

Order PRE/2072/2011, from July 22, which announced the Agreement of the Council of Ministers through which it establishes the reactivation of the transitory period in regards to the free circulation of workers from Romania. Instruction DGI/SGRJ/5/2011, on the entry, permanence and work regimes in Spain for employed workers from Romania and their family members.

Instruction DGI/SGRJ/3/2011 on the application of the Regulation of Organic Law 4/2000, on the rights and freedoms of foreigners in Spain and their social integration, in regards to the notification of hold.

Instruction DGI/SGRJ/03/2010, on the application of the Supreme Court's Decision, from June 1, 2010, regarding the annulment of several paragraphs of the Royal Decree 240/2007, from February 16, on the entry, free circulation and residence in Spain of citizens from the Member States of the European Union, and other signatory states of the agreement on the European Economic Area.

Instruction DGI/10/2008, on the authorizations for temporary residence in exceptional circumstances, when the children of father or mother who were originally Spanish are involved.

Instruction General Direction of the Civil Register from June 26, 2007, on the processing of the Spanish nationality requests by residence.

Instruction DGI/SGRJ/03/2007 regarding the Royal Decree 240/2007, from February 16, on the entry, free circulation and residence in Spain of citizens from the Member States of the European Union and other signatory states of the agreement on the European Economic Area.

Resolution from June 7, 1991, from the Sub-Secretariat, which announces the publication of the Agreement of the Council of Ministers from July 7, 1991, on the regularization of foreign workers.

Non-legislative

II Strategic Citizen and Integration Plan for the years 2011-2014.

Final Report on the Execution of the First PII: http://acidi.gov.pt.s3.amazonaws.com/docs/MAG/Relatorio_Final_PII1_2007_2009.pdf

Brazil

Constitution, Laws and Decrees

Decree 6975/09 | Decree 6.975, from October 7, 2009. It proclaims the Agreement on the Residence for Nationals from the Member States of the Southern Common Market - Mercosur, Bolivia and Chile, signed at the XXIII Meeting of the Common Market Council, in Brasilia on December 5 and 6, 2002.

Decree 6964/09 | Decree 6.964, from September 29^t, 2009. It proclaims the Agreement on the Residence for Nationals from the Member States of the Mercosur, signed at the XXIII Meeting of the Common Market Council, in Brasilia, on December 5 and 6, 2002.



Law 11.961, from July 2, 2009. Discusses the temporary residence for the foreigner in irregular situation in the national territory, and define other procedures.

Decree 6.736, from January 12, 2009. It proclaims the Agreement between the Federative Republic of Brazil and the Argentinian Republic, signed in Puerto Iguazú, on November 30, 2005.

Decree 2771, from September 8, 1998. It regulates the Law 9.675, from June 29, 1998, which discusses the Temporary Registration for the Foreigner in Illegal Situation in the National Territory.

Law 8.080/90, Health Organic Law (LOS).

Law 9.675, from June 29, 1998, which extends to the foreigner in illegal situation in the national territory the term to request the temporary registration.

Law 7.685, from December 2, 1988 which discusses the temporary registration for the foreigner in illegal situation in the national territory.

Decree 86.715, from December 10, 1981. It regulates the Law 6.815, from August 19, 1980, which defines the legal situation of the foreigner in Brazil, creates the National Immigration Council and establishes other procedures.

Law 6.964, from December 9, 1981, which alters the dispositions of Law 6.815, from August 19, 1980, which "defines the legal situation of the foreigner in Brazil, creates the National Immigration Council and establishes other procedures."

Law 6.815, from August 19, 1980, which defines the legal situation of the foreigner in Brazil, creates the National Immigration Council.

Constitution of the Federative Republic of Brazil from 1988, Brasilia, October 5, 1988.

Consolidation of Labour Laws (Consolidação das Leis do Trabalho - CLT)

Normative Resolutions

Normative Resolution 97 from January 12, 2012. Discusses the concession of the permanent visa to the nationals from Haiti, discussed in Article 16 of the Law 6.815, from August 19, 1980.

Normative Resolution 93 from December 21, 2010. Concerns the concession of permanent visa or permanence in Brazil to the foreigner considered a victim of human trafficking.

Normative Resolution 87 from September 15, 2010, on the concession of a visa to the foreigner associated with a foreign company, for professional training at a Brazilian branch, subsidiary or headquarter of the same economic group.

Normative Resolution 88 from September 15, 2010 on the concession of visa to the foreigner who comes to Brazil for an internship.

Normative Resolution 84, from February 10, 2009: foreign individual investor.

Normative Resolution 77, from January 29, 2008: Temporary Visa, Permanent Visa or Permanence to the foreigner partner, in a stable union, with no distinction of gender, with a Brazilian citizen or foreigner already residing in Brazil.

Normative Resolution 70, from May 9, 2006: Permanent Visa to the foreigner hired for the position of administrator, manager, or administrator of non-profit legal entity of private law.



Normative Resolution 68, from December 7, 2005. Foreigner who comes to Brazil as a volunteer in the positions of director, manager or administrator of religious or social assistance entity, or non-profit non-governmental organization.

Normative Resolution 63, from July 6, 2005: arrival of foreigner to represent, in Brazil, a financial institution or similar headquartered abroad.

Normative Resolution 62, from December 8, 2004, altered to Normative Resolution 95 from August 10, 2011: foreigner in the condition of administrator, manager or executive with managerial powers at Civil, Commercial Partnership or Economic Group.

Normative Resolution 45, from March 14, 2000, modified to Normative Resolution 95 from August 10, 2011: entry of retired foreigners.

Normative Resolution 27, from November 25, 1998: Temporary Visa, Permanent Visa or Permanence for omitted cases and special cases involving foreigners.

Normative Resolution 36, from September 28, 1999: Temporary Visa, Permanent Visa or Permanence based on family reunion of foreigner with Brazilian citizen or foreigner already residing in Brazil; (amended by Normative Resolution 85 from April 14, 2010)

Normative Resolution 18, from August 18, 1998, it concerns the concession of permanent visa to foreigner who intends to come to Brazil in the position of investor, administrator or director of company located within the Export Processing Zone (ZPE).

Normative Resolution 05, from August 21, 1997. Concession of permanent visa or definite permanence to the foreigners who have lost their permanent status for being absent from the country.

Normative Resolution 1, from April 29, 1997. Concession of visa to high level professor or researcher, and foreign scientists.

Ordinances and Agreements

Ordinance no. 1700, from July 28, 2011. It discusses the procedure for the conversion of temporary residence into permanent residence, discussed by Law 11.961, regulated by the Decree 6.893, both from July 2nd, 2009.

Agreement for the Migration Regularization signed between Brazil and Bolivia in La Paz on August 15, 2005, DOU n. 179 from September 16, 2005, Section 1, page 67.

Agreement between the Federative Republic of Brazil and the Portuguese Republic about the Reciprocal Hiring of Nationals signed in Lisbon on July 11, 2003 (DOU n. 141, from July 24, 2003).

Bill 5.655/2009

Bill 5.655/2009, being processed at the Parliament about the new legal landmark of the migration process (New Migration Law).

Non-legislative

National Immigration Policy and Protection of the Migrant Worker.



Cases

European Union

Case C-508/10, European Commission against the Kingdom of the Netherlands, April 26, 2012;

Case C-571/10, Kamberaj, April 26, 2012.

Case C-578/08 Chakroun.

Case C-540/03 European Parliament against the European Union Council.

Spain

Sentence – Constitutional Court (STC) 236/2007.

Sentence – Constitutional Court (STC) 259/2007.

Websites

Portugal

<http://www.nacionalidade.sef.pt/>

<http://www.acidi.gov.pt/es-imigrante>

Spain

<http://extranjeros.empleo.gob.es/es/index.html>

Brazil

<http://portal.mte.gov.br/cni/>





5. ACCESS OF BRAZILIAN IMMIGRANTS TO THEIR RIGHTS IN PORTUGAL

João Peixoto⁷⁸
Thais França da Silva⁷⁹

5.1 Introduction

The purpose of this study is to analyze the access of Brazilian immigrants to their main economic, social and political rights in Portugal. The study will highlight the degree of access to a particular selection of rights, the main difficulties in accessing them and some good practices that characterize the integration process. The analysis is based, above all, on a set of interviews carried out with Brazilian immigrants and some institutional actors between August 2012 and January 2013. The detailed investigations performed in the last few years on emigration of Brazilians to Portugal will also be used and may be referred to as a means of contextualizing and strengthening the analysis of this topic.

The rights to which immigrants, particularly Brazilians, have access will not be described in this report. A comprehensive review and analysis of Portuguese immigration legislation, including the case of Brazilians, was undertaken by Acosta Arcarazo (see chapter 4 of this publication). In this chapter, the legislation on foreigners, regarding irregular immigrants, temporary and permanent residence, family regrouping and access to nationality, will be reviewed. Some of these laws have resulted from the transposition of European Union Directives, which have created a set of common procedures within the community; others are the exclusive responsibility of Portuguese authorities.

Beyond this legislation, other measures have been applied in the area of immigrant integration. A global perspective on the Portuguese situation, including comparisons with other receiving countries (both European and non-European), is discussed by the Migrant Integration Policy Index (MIPEX) (Niessen et al.: 2007 and <http://www.mipex.eu>). This comparative index, developed to assess and compare integration policies in various countries, examines a set of measures in seven different areas of political intervention: 1) mobility in the labour market; 2) family regrouping; 3) education; 4) political participation; 5) long-term residence; 6) access to nationality; and 7) anti-discrimination. This index has repeatedly placed Portugal as the country with the second-best integration policies among those analyzed, confirming the quality of Portuguese policies in this area. Some international institutions, such as the United Nations and the International Organization for Migration, have also commended Portuguese policies (*Público*, "Portugal é o mais "generoso" em políticas de integração": October 5, 2009).

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Another political instrument that should be mentioned is the series of *Plans for the Integration of Immigrants*. The 2nd *Plan for the Integration of Immigrants*, which refers to the period between 2010 and 2013, contains several measures in areas including culture and language, housing, employment and professional training. The purpose of this plan is to ensure the coherence and transversality of the process, and allow the evaluation of several integration measures.

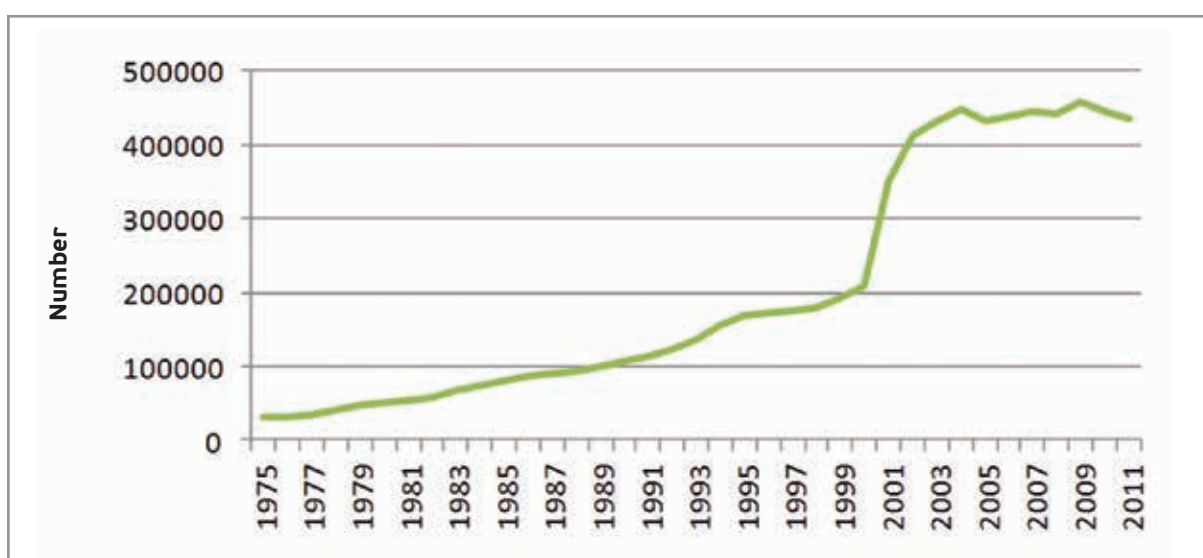
As such, the analysis of Brazilian immigrants' access to various rights is deeper in this chapter, but we will deal with the *de facto* access which is not always consistent with *de jure* access. The first part of this analysis will develop a framework for the topic of Brazilian immigration in Portugal, reviewing the main trends in migration flows, and the social-demographic and economic characteristics of Brazilians. The second part presents the results of the research conducted. After a description of the methodology, the migratory trajectories of Brazilians are discussed, as are their access to rights and some other issues relevant to the lives of immigrants. The role of both Portuguese and Brazilian institutions in the integration process is also discussed.

5.2 Framework

5.2.1 Immigration in Portugal

Foreign immigration has become a structural aspect of Portuguese society in the last few decades (for an overview of the theme, see Pires et al.: 2010). As observed in Graph 1, the number of foreigners with legal residence in Portugal went from approximately 30,000 in the mid-1970s, to 436,822 by the end of 2011. These absolute values represent a relative increase from 0.3% to 4.1% of the population. The qualitative expression of this increase is significant: Portuguese society is now seen as a welcoming society and many of its contemporary characteristics, from work to leisure, reflect the diversity of its population.

Graph 1 – Evolution of the number of foreigners in Portugal, 1975 - 2011

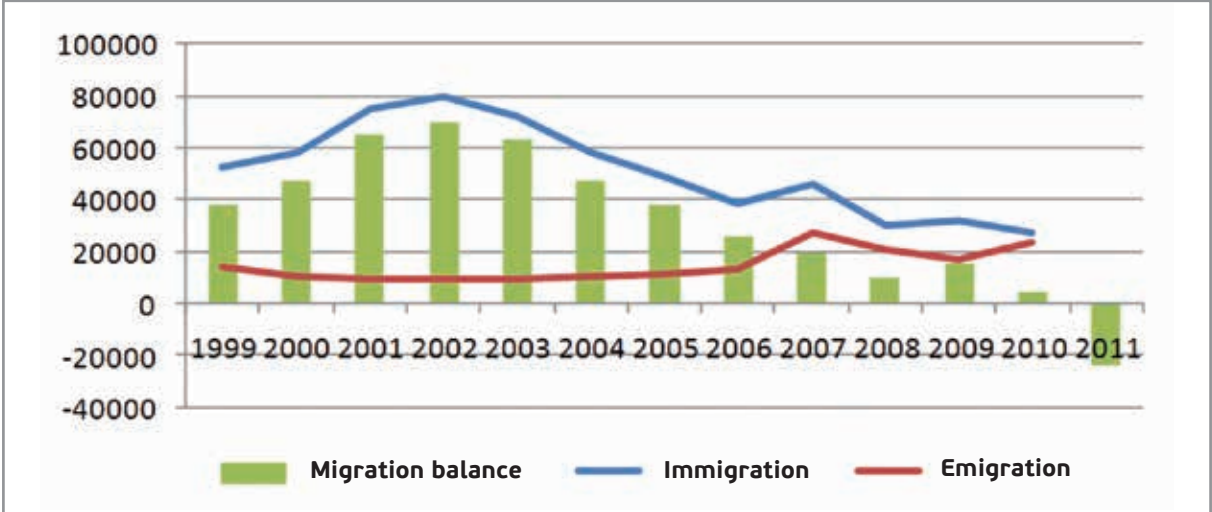


Source: INE/SEF

The growth of immigration has not always been gradual. Until the end of the 20th century, growth was relatively stable as a result of several identifiable episodes: the period after decolonization, in 1974, which explained the growth of immigration originating from previous African colonies; accession to the European Union in 1986; various moments of the economic and social modernization processes taking place throughout these decades; the first operations for the regularization of immigrants in 1992-93 and 1996. However, a greater increase in the number of entries took place after the second half of the 1990s. A period of strong economic growth; the creation of the Schengen space (which ended controls at several European borders and facilitated increased movement within the continent); increasing pressure to leave certain regions of the world, such as Eastern Europe and Latin America; and the global changes that emerged after the September 11 attacks all help to explain this changing dynamic. Immigration growth in Portugal around the turn of the century thus became extremely high; its most commonly known volume occurred during the regularization operation in 2001 (concession of “permanence authorizations”).

After 2004, however, the number of foreigners in Portugal stabilized, with very fast growth reaching its maximum level in 2009 (457,306 individuals). From this date on, there was a downward tendency, leading to the number 436,822 in 2011. As documented by Graph 2, annual immigration flows to the country started to decrease at the beginning of this century while simultaneously the growth of emigration began to slightly increase. With the impacts of the international economic crisis in 2008, which were particularly severe in Portugal, immigration continued to decline and emigration continued to rise, until an almost break-even migration balance was reached in 2010, and a negative one in 2011.

Graph 2 – Immigration, emigration and migration balance in Portugal, 1999-2011

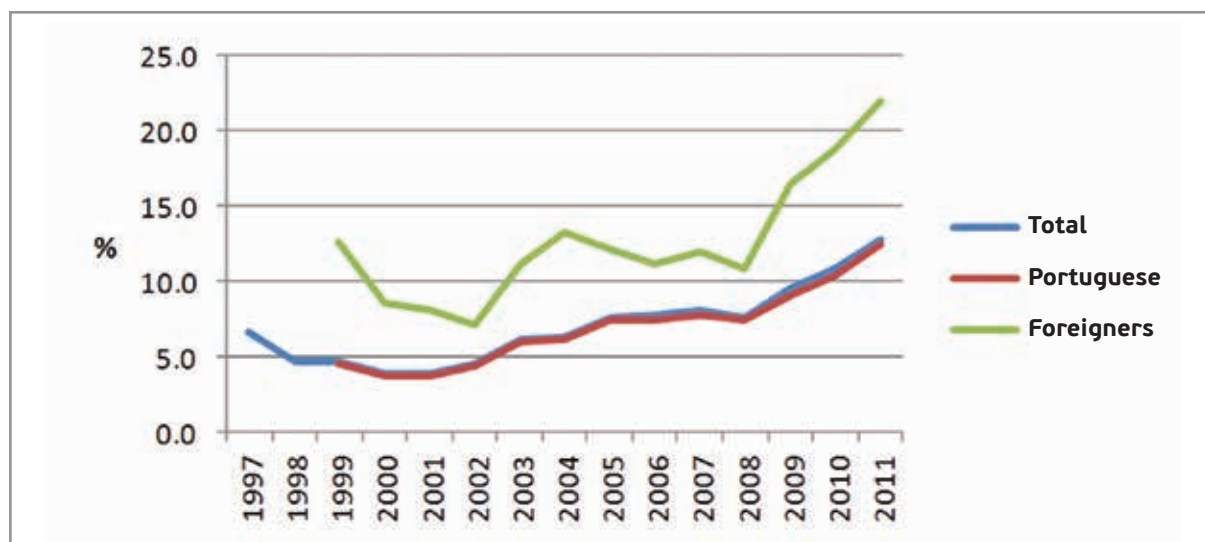


Source: Eurostat (1999-2010) and INE (2011)

The significant increase in immigration around the turn of the century and its subsequent reduction are deeply linked to the pace of economic growth and the levels of employment and unemployment at the time. The great economic expansion that took place until the early 21st century, the consequent deterioration of the economic situation and the significant crisis escalation after 2008 – which led Portugal to depend on a financial bailout by the International Monetary Fund, the European Central Bank and the European Commission in 2011 – explain much of the evolution of immigration trends. Given that international migration to Portugal is strongly associated with the labour market, the decrease of immigration and the increase of emigration is not surprising. The values shown in Graph 3 reinforce this, demonstrating a generalized increase of unemployment rates, deeply harming the foreign population.



**Graph 3 – Unemployment rate by nationalities
(Portuguese and foreigners) in Portugal, 1997 – 2011**



Source: INE

5.2.2 Demographic and socioeconomic characteristics of the Brazilian immigration in Portugal

As shown in table 5, Brazilian nationals represented the largest foreign community residing in Portugal in 2011 (for a general view of Brazilian immigration to Portugal, see Machado: 2006 and Malheiros: 2007). By the end of that year, Brazilians totalled 111,445, representing 25.5% of the total number of foreigners. The other major foreign communities originated from Eastern Europe, particularly Ukraine and Romania, and the Portuguese-speaking African countries, especially Cape Verde, Angola and Guinea-Bissau. The fact that these data are disaggregated according to nationality may distort the weight of certain communities. However, when considering the number of individuals or descendants of immigrants who were granted Portuguese nationality, the weight of certain groups increases substantially, which is especially the case of Capeverdeans.

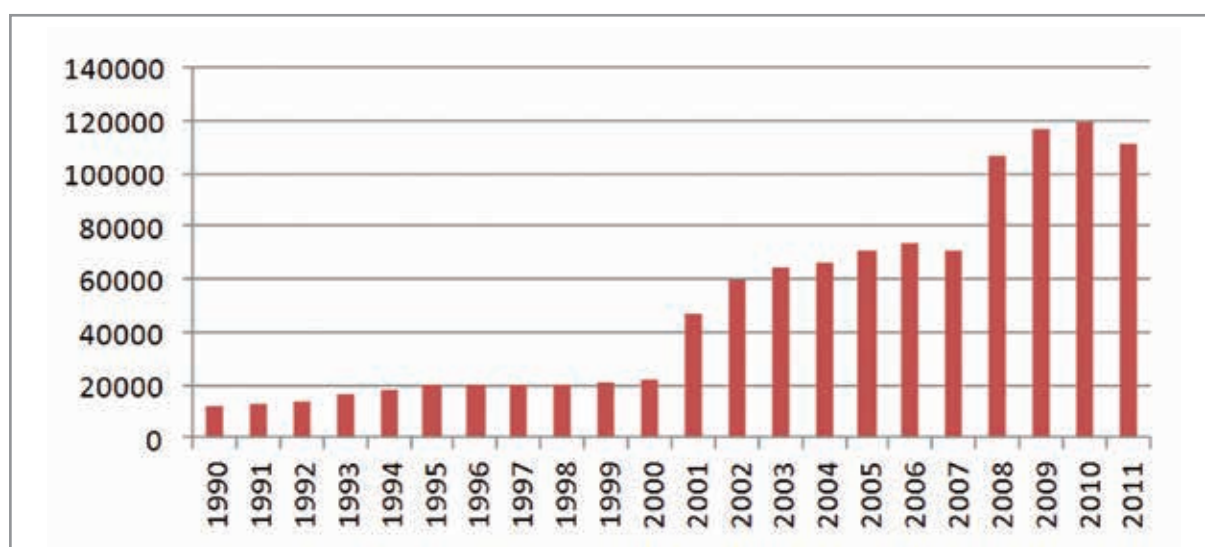
Table 5 – Foreigners with legal residence in Portugal, according to nationality, 2011

	No.	%
Total	436,822	100.0
Brazil	111,445	25.5
Ukraine	48,022	11.0
Cape Verde	43,920	10.1
Romania	39,312	9.0
Angola	21,563	4.9
Guinea-Bissau	18,487	4.2
United Kingdom	17,675	4.0
China	16,785	3.8
Moldova	13,586	3.1
São Tomé and Príncipe	10,518	2.4
Others	95,509	21.9

Source: INE / SEF

The growth of immigration from Brazil has been inconsistent in its pace. Graph 4 shows the number of Brazilians residing legally in Portugal between 1990 and 2011. In 1990, the total of Brazilian residents was a little higher than 11,000. Although this is a significant increase compared to the previous decades, it still represented only around 10% of the total number of foreigners. In the 1990s, the number of Brazilians doubled to a little more than 20,000, but remained proportionally the same. It was only at the turn of the century that Brazilian immigration accelerated, both in absolute and relative terms, until it reached more than 111,000 and 25.5% of the total number of foreigners in 2011. Significantly, the highest figure is registered in 2010, with 119,363; followed by a decline the next year.

Graph 4 – Evolution of the number of Brazilians in Portugal, 1990 - 2011



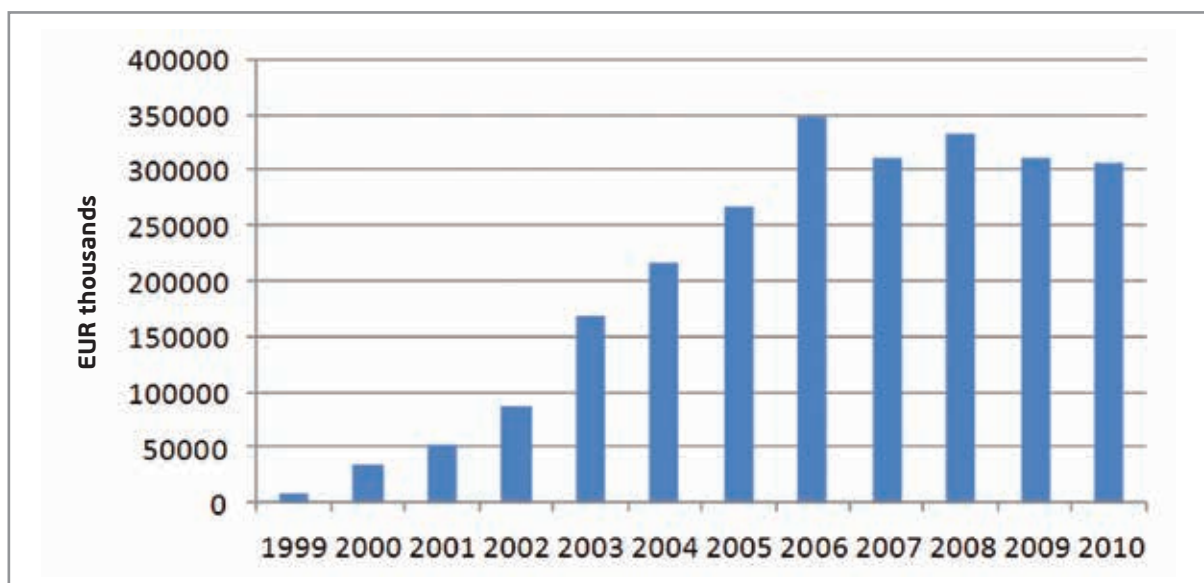
Source: INE/SEF

This variation results partly from real alterations in the Portuguese labour market, and partly from immigration policies. Therefore, the significant growth in immigration from the 1990s, as well as immigration in general, is related to the high rates of economic growth experienced in that period. In the case of Brazilian immigration, it seems that the increase in immigration after 2001 resulted from a redirection of the previous migration flow to the United States; the response to the events of September 11 included increased border control and made migration to the United States more difficult. (Pinho: 2012). However, unlike general immigration to Portugal, the inflow from Brazil maintained a high level of growth throughout this first decade of the 21st century. This explains why Brazilians increased from being 10.7% of the total number of foreigners in 2000 to 25.5% in 2011. This steady and intense growth seems to be related to three factors: 1) the strength of the migration networks between Brazil and Portugal; 2) the usual expectations of entry and legalization, reinforced with the “Lula Agreement” (Agreement between the Portuguese Republic and the Federative Republic of Brazil on the Reciprocal Hiring of Nationals), in 2003; and 3) the type of economic integration experienced by migrants, especially those working in the service sector, which was less affected by the economic crisis than others. Besides, Brazilian citizens were among those who benefited most from the possibilities for regularization granted by the immigration law of 2007; this explains the increase in numbers after 2008 (in particular contrast to entries in previous years). The impact of the recession after 2008 is, however, significant and explains the contraction after 2010.



The slowdown in the immigration flow coming from Brazil is also evident in the total amount of financial remittances sent to the country of origin (Graph 5). After very significant growth up to 2006, when remittances to Brazil reached a high of €348.7 million, they then began to decline to a total of €306.3 million in 2010. The slowdown in immigration, the better integration of immigrants in Portugal, and the increase in the number of returns are factors that explain this variation.

Graph 5 – Remittances to Brazil, 1999-2010



Source: Banco de Portugal

From a demographic perspective, the data available confirm the significant feminization of Brazilian immigration, with women making up 57.4% of the total number of immigrants in 2011 (SEF: 2012); most immigrants are also young adults (Góis et al.: 2009). From a socioeconomic perspective, the official statistical information is limited. However, the studies available confirm the entry of these immigrants into jobs requiring lower educational qualifications than the migrants actually possess. Under these circumstances, immigrants are subject to a significant precariousness of working conditions (Tables 6 and 7).

Table 6 – Professional groups of Brazilian immigrants in 2009, by year of arrival (%)

Professional Group	Until 1998	1999 to 2003	2004 a 2007	2008 a 2009	Total
Senior executives, directors and specialists	50.0	15.9	7.8	6.8	12.1
Technicians, mid-level professionals, administrative and service staff, and salesclerks	37.5	44.1	51.1	62.1	50.1
Labourers, operators, craftsmen and similar	9.4	23.6	15.9	11.7	17.2
Unskilled workers	3.1	16.4	25.2	19.4	20.7
Total	100.0	100.0	100.0	100.0	100.0

Source: Peixoto and Egreja, 2012b



Table 7 – Professional groups of Brazilian immigrants in 2009, according to educational background (%)

Professional Group	Elementary School (up to 4 th grade/5 th year)	Middle School (5 th to 8 th grade/9 th year)	High School (12 th year)	Higher Education	Post-graduate, Master's and Doctoral Degrees	Total
Senior executives, directors and specialists	2.4	11.8	31.8	34.1	20.0	100.0
Technicians, mid-level professionals, administrative and service staff, and salesclerks	2.9	14.5	65.5	13.6	3.5	100.0
Labourers, operators, craftsmen and similar	8.8	33.6	52.0	5.6	0.0	100.0
Unskilled workers	13.8	18.1	58.0	7.2	2.9	100.0
Total	6.1	18.3	57.4	13.4	4.8	100.0

Source: Peixoto and Egreja, 2012b

Today, Brazilian immigration is well studied in Portugal. In the literature on the topic, the unstable increase that took place at the turn of the century, especially since 1998, is referred to as the “second wave” of immigration (Casa do Brasil de Lisboa: 2004; Malheiros: 2007). Besides its great volume, this second wave is characterized by inferior social status at departure and arrival. The upper middle classes are no longer those leaving Brazil; the lower classes are now the predominant ones. In Portugal, social and economic integration of immigrants is less successful than before. The majority of immigrants belong to what is known as the “secondary” labour market, where low-skilled jobs and poor working conditions are predominant. The main sectors where they are employed are construction sites, domestic work, trade, restaurants and hotels. The stereotype associated with the “cheerfulness” of Brazilians, in conjunction with the common language, eases their entry into the world of services (Machado: 2003). Recently, it has been discussed whether it would be useful to classify a “third wave” to designate the arrivals that took place from 2005 to 2010; the conclusion, however, was that the main characteristics of the “second wave” were maintained (Góis et al.: 2009).

Other recent studies confirm the strength of informal migration networks between the countries (Padilla: 2006; Pinho: 2012; Peixoto and Egreja: 2012a). Others reveal the segmented nature of the integration of Brazilian immigrants into the Portuguese workforce, where tasks that are more vulnerable to work casualization are predominant (Peixoto and Egreja: 2012b). Research also reveals great gender inequalities; women are particularly affected by gender discrimination and stereotypes (Padilla: 2007; Silva: 2012). The great impact of the current crisis among Brazilian immigrants has also been the subject of study. It is known that the degradation of life and work conditions has been more intense among immigrants, including Brazilian ones, than among Portuguese citizens, and that their unemployment rates are above the national average (Peixoto and Iorio: 2011). Although a complete inversion of migrations flows is not in evidence, returns to Brazil have been significant (Nunan and Peixoto: 2012).



5.3 Investigation results

5.3.1 Methodology

The data in this study was acquired through a set of interviews with Brazilian immigrants and representatives of institutions playing an active role in this area.

We conducted 26 semi-structured interviews with Brazilians living in Portugal, to gain a perspective from individual immigrants. Although the constraints of the study did not allow for a representative sample, interviewees were selected with the aim to diversify the status and characteristics of the immigrants, in order to obtain illustrative cases of different migratory conditions. Thus, efforts were made to reach a balance between the numbers of men and women, regular and irregular immigrants, workers and students with varied levels of qualification, and immigrants with different times of arrival.

It should also be noted that, in order to prevent biased results, the interviews were conducted by a Brazilian researcher. The interviewees were contacted in different contexts, in order to obtain the previously mentioned degree of diversification. In a few cases the “snowball” method was used, whereby the previous interviewees indicated the subsequent ones. All the interviews were recorded and the names of the interviewees were modified to protect their privacy. The interviews were conducted between August and October 2012.

With respect to the institutional representatives, we contacted the main Portuguese governmental institutions that work in the integration of immigrants as well as representatives of Brazilian authorities and some of the main associations of Brazilian immigrants. Although there were some difficulties in conducting the appropriate number of interviews, almost all of the entities that we contacted collaborated. Interviewees included representatives from the High Commissioner for Immigration and Intercultural Dialogue (*Alto Comissariado para a Imigração e Diálogo Intercultural*, ACIDI), the Association of Brazilian Researchers and Students in Coimbra (*Associação de Pesquisadores e Estudantes Brasileiros em Coimbra*), the General Consulate of Brazil in Lisbon, the International Organization for Migration (*Organização Internacional para as Migrações*, IOM) and the Foreigners and Borders Service (*Serviço de Estrangeiros e Fronteiras*, SEF). The interviews took place between November 2012 and January 2013.

In addition, since Brazilian immigration has become the subject of extensive research in Portugal in recent years, much of the information directly collected for this study could be compared to and validated by previous studies.

5.3.2 Migratory trajectories of Brazilian immigrants

Questions about migratory trajectories presented in the questionnaire included the city of departure from Brazil, the year of arrival in Portugal (and period of residence), reason(s) for migrating, the extent of information-gathering prior to departure, legal status at entry and current legal status.

5.3.2.1 Arrival in Portugal

The migrants' geographical origins in Brazil were diverse, in keeping with other recent studies on the subject (see, for instance, Góis et al.: 2009). Among the 26 interviewees, one came from the northern region (Tocantins), nine came from the northeast (Maranhão, Ceará,

Pernambuco and Bahia), two from the mid-west (Federal District and Goiás), seven from the southeast (Minas Gerais, Rio de Janeiro and São Paulo) and seven from the south (Paraná and Santa Catarina). The long history of migratory flows and counter-flows between Brazil and Portugal, the geographical diversity of departures from Brazil in the last decades and the extent of the social networks that are active between the two countries all go some way to explaining why migration originates in almost all of the Brazilian federal states.

Analysis of the years of arrival revealed several migratory waves in the last few decades from Brazil to Portugal. Taking the periods of migration defined in previous studies for reference (for example, Peixoto and Egreja: 2012b), three of the interviewees migrated between 1991 and 1998, seven between 1999 and 2003, six between 2004 and 2007, and ten between 2008 and 2011. The strength of the “second wave” of Brazilian migration, which started in the late 1990s, is evident in these data, as well as its extension throughout the first decade of the new century. The only relatively surprising finding is that the great majority migrated very recently, from 2008 to the present. The data and studies available suggest that, starting in 2008, Brazilian migration slowed down. The weight of recent entries in our sample may be attributed to a bias related to this type of study (where inquiries in public spaces are frequent, causing over-representation of newly arrived individuals). It could also result from a possible retreat of Brazilian migration. It is well known that temporary migration and return have been frequent among Brazilian migrants (see, for example, Malheiros: 2007). It is possible that migrants who arrived a longer time ago have since moved elsewhere or returned to Brazil, increasing the proportion of the most recent arrivals.

The reasons given for migration were varied and included the search for employment, relocation for study and personal reasons. There is one aspect, however, that is common to all interviewees. Almost all of them were looking for a place in the labour market; this includes those who migrated for educational and personal motives. The expectation of a fast and easy entry to the labour market was one of the reasons why Portugal was chosen by all of the responding groups. The shared language was another.

In most cases, the interviewees had support from informal networks and went to Portugal as tourists before remaining irregularly afterwards. Given this kind of migration route, the main information source for these immigrants was the informal social networks. The notable exception to this profile is that of students, who normally try to migrate by legal means and obtain legal information before departure.

5.3.2.2 Migration for employment purposes

The trajectory of those who migrated for employment purposes shows a very consistent pattern and one already identified in other studies on the subject. In the overwhelming majority of the cases, migration is supported by informal social networks. Migrants usually do not obtain consistent information before departure (such that the migrant depends on the information provided by the network) and they enter Portugal as tourists, staying irregularly in the country afterwards until there is an opportunity for regularization.

Some of the passages from the interviews are representative of the motives for choosing Portugal for employment purposes:

“No, I did not want to know about anything, I bought my ticket and came straight here and had my luggage ready (...) I was only going to spend two months, I came to work and then travel around Europe.” [Caetano, hairdresser]



"I really wanted to come here, I made a few contacts. (...) I called a friend of mine, got a loan and flew to Portugal. I decided to come to Portugal, to Europe, it has been a while already. (...) I thought, if I go to Portugal, I am going to advance about two, three, four years, because of the euro's value over the real. So if I have to go to Europe, where do I go? I will go to Portugal, but why Portugal? Because there are a lot of Brazilians in Portugal, the language is similar. So I think Portugal is the best haven. And it is also part of the Eurozone." [Edu, waiter]

In relative terms, choosing Portugal as a destination might seem surprising when its income levels are compared to those of other countries in Europe. Besides the common language, the expectations of easy entry at the border and rapid integration into the labour market explain the decision:

"I left Brazil to go to Amsterdam and from there I was going to England, but I was denied. So I came to Portugal (...). I did not want to stay in the Netherlands; the costs of living there are high, really high. And as for the labour market, we cannot find jobs; it is really complicated being an immigrant." [Erasmus, head waiter at a restaurant]

The migratory routes are supported by the operation of informal networks – friends, family or fellow countrymen who have already been living in Portugal. This explains why the information accessed prior to migration is typically that provided by these networks. In rare cases, migrants search for official information with Brazilian or Portuguese authorities before departure:

"I did not get any information. I do not remember very well, but I think at that time my friend said it was not very complicated, the first thing I had to do here was to obtain a social security number, which was the first time I ever did it, and those things would resolve themselves." [Chico, owner of a travel agency]

"The only thing I knew is that I had someone I trusted, as well as other people I barely knew, that lived here, that enjoyed living here, whose work allowed them to have a stable financial life, but as for the rest, I did not know much." [Gilberto, unemployed]

"I had a friend here and I took a leap in the dark. There was a friend of mine here, but he was not trustworthy. And that is it, but since I wanted to come I said let's go and I went (...) I could have obtained better information. The only information I got came from this friend of mine." [Edu, waiter]

The relatively ease of entry at the border, owing to the non-requirement of a visa to enter countries of the European Union, and the expectation of obtaining a legal residency status some time after arrival mean that, in almost all of the cases, the legal status upon arrival was that of a tourist. This meant that the migrants became irregular as soon as they began working. In one of the interviews, the respondent talked about learning how to deceive the border control authorities:

"I came as a tourist because that was the only viable way. The work visa at that time would take four to six months, and the company had to deal with a lot of bureaucracy." [Gilberto, unemployed]

"I obtained information from my friend and the agency, who taught me everything. He had been here for about eight months. I bought the ticket at the agency, euros, maps and that kind of stuff. They taught me what I had to say, everything..." [Zé Renato, waiter]



5.3.2.3 Migration for educational purposes

Migrants who came for educational purposes are another group of considerable importance. Their migratory route is different to that of the previous group; they almost always seek appropriate legal status at entry, usually a student visa, as well as more consistent information about the country of destination, also generally obtained by formal means.

The search for a legal basis for residence is not always successful, however. The bureaucracy involved in the procedures for legal migration force people in some cases to travel as tourists and then obtain a student visa. As has been demonstrated by some of the interviewees from relevant institutions, these issues result from the difficulty of and delays to obtaining student visas in Portuguese Consulates in Brazil. The use of an informal route results thus from time constraints:

"I came as a tourist because I ran out of time. It was very fast. I graduated in August and in September I was in Portugal. The Consulate was very slow."
[Milton, PhD student]

On the other hand, it was confirmed by the Portuguese authorities and interviewees representing the Brazilian associations that there is an easy way to solve this problem after arrival. Given an awareness of bureaucratic delays, the Portuguese authorities have been working to solve this problem faced by students after their arrival. Apparently, many of those migrants expect an easy solution to the issue (since otherwise they would not risk coming without appropriate documents).

Those who migrate for educational purposes also seek information in a more systematic way, typically by contacting official institutions, like the Portuguese Consulates in Brazil, or obtaining other types of official information:

"So, for instance, when I came over there was something, I think it was called PB-4, which is the agreement, I saw it, registered, so that I could have access to healthcare here. I checked out information about working, looked at the legislation." [Nara, university professor]

The more formalized migratory route does not preclude, however, the influence of informal networks:

"I had a Brazilian friend situated in Coimbra (...) I was looking for this friend when I graduated, and he asked me why not move to Portugal. And then, a professor from UFRJ recommended the university to me." [Milton, PhD student]

It is important to note that the choice of Portugal for studies is also partly attributable to the relatively easy access to the labour market. This is significant given that most often courses are not covered by scholarships, and the students need to obtain a source of income.

"I have always wanted to live abroad and I had two friends who were living in Braga to get their Master's degree (...) Also, because the language is very easy. And I didn't want to come and do nothing, just work, I wanted to go to school before I came back. (...) I came here to study, but I knew I was going to have to work." [Elis, salesperson]



5.3.2.4 Migration for personal reasons

Migrations motivated by personal reasons are a third important group of flows to Portugal. This field might include migrations for romantic reasons (to accompany or reunite with a spouse or partner, whether they are Brazilian or Portuguese), migrations to look for new experiences, moves motivated by personal or professional difficulties in Brazil, etc. The nature of these routes is very similar to that of those who migrated for employment purposes: they are routes that tend to rely on support from informal social networks instead of official means, and those who move for these reasons tend to enter as tourists before remaining irregularly until there is an opportunity for regularization.

Most often, these migrations are unexpected, rapidly decided upon in Brazil, and are supported by the possibility of return in case the experience is negative.

"I came here on vacation, but at the back of my mind I thought, 'If I adapt and get a job, I will stay'." [Bethânia, manicurist and beauty therapist]

"I was in doubt whether I came here to work or not, I had my return ticket and said, 'I will go and if it doesn't work out, I'll come back'." [Rita, hairdresser]

5.3.2.5 Fixing residency

Most of the interviewees are currently regular. Among the 26 respondents, six had dual citizenship (Brazilian and Portuguese, sparing them the obligation of obtaining immigration documents), two had authorization for permanent residence, 15 had authorization for temporary stay (including student visas that were changed to a residence authorization for educational purposes), and only three were irregular (one of those had become regular, but lost his right due to changes in his situation).

It should be noted that, during the research, attempts were made to find more irregular immigrants, in order to have a balanced sample. These efforts were fruitless, which could probably indicate the current scarcity of undocumented individuals in the country, at least in comparison to the recent past where their existence was abundant and visible in public spaces. This is down to a reduction of migratory pressure from Brazil to Portugal (due to alterations in the contexts of departure and arrival), the possible return of some undocumented individuals to Brazil (especially in light of the unfavourable economic situation) and the changed possibilities for regularization.

On the other hand, the scarcity of irregular immigrants found for the study is surprising, considering that the great majority of regular interviewees had entered Portugal as tourists and became illegal for a period of time. With a short period of residence at the country of destination – almost always less than ten years – the great majority of them became regular.

Access to regularization for Brazilian immigrants is provided by Portuguese legislation implemented in recent decades (see Acosta Arcarazo, chapter 4 of this publication). One of the main points to emphasize is the endemic difficulties in the regularization of migration, where the government's best choice is often to promote some type of retrospective regulation, that is, through regularization processes (about this matter, see also Baganha, 2005). There have been incidents of particularly expansive retrospective regularization from 1992 to 2004 – including the already mentioned "Lula Agreement" (*Acordo Lula*), in 2003 – as well as the ordinary possibilities of regularization created by the 2007 immigration law. Another point to be emphasized is that the access to Portuguese citizenship became significantly broader after 2006, such that it has been utilized by an increasing number of citizens from abroad, including Brazilian immigrants.



In this study, we found evidence of access to numerous opportunities for regularization, in addition to a reduced waiting period to obtain a legal status. Some of the representatives of institutions confirmed the ease of regularization, and one respondent stated: "I do not see major problems. The regulations are very generous." The main problem noted has to do with the bureaucracy involved in the process. The same perception is demonstrated by the interviewed immigrants:

"I already knew them [the friends he lives with, from the same city in Brazil]. So they invited me 'come on, come on, come on,' and I said, 'ok then, I will go and check it out. (...) After six months I was able to begin the legalization process at SEF." [Erasmio, head waiter at a restaurant]

"I got the information from a friend and an agency, who taught me everything. He had been here for about eight months. (...) It took me about two years to become legal." [Zé Renato, waiter]

Denial of these rights by the Portuguese authorities is rare. As stated by an interviewee from an institution, "with the regime we follow, with the scrutiny we have, it is not worth it [to deny legalization]." The possibilities of scrutiny include recourse to courts, social communication and civil society.

The greatest problem that some Brazilian immigrants might face, as attested by one of the institutional representatives we interviewed, is when they live in "legal limbo": "they are not able to regularize [their status] because they do not have a contract, and they do not have a contract because they are not able to regularize [their status]."

Finally, it should be noted that the economic crisis, the decrease in revenue and the extent of unemployment did not seriously compromise the possibility of renewal of legal status for Brazilians. As raised in one of the institutional interviews, and as previously known from other studies (Peixoto and Iorio: 2011), there are recent procedures by the SEF that allow the renewal of residence titles in situations of unemployment and low means of subsistence.

5.3.3 Housing

Residential mobility assessed in this study varied but presented some recurring patterns. During the early stages of migration, informal arrangements predominated, especially rented rooms, and situations of overcrowding. In more advanced stages of the migratory process, access to decent housing became prevalent, including apartments from the formal housing market that were rented by the individual or shared with one or two people.

The influence of informal networks was almost always present somewhere in the process, more so during the early stages and decreasingly later on. However, even in more advanced stages, a complex combination of formal and informal arrangements is evident. Finally, many interviewees recounted cases of discrimination against Brazilians. In many aspects, the evidence corresponds to what is available from previous broader studies on the subject (see, for example, Malheiros and Fonseca: 2011).

During the early stages of migration, precarious housing situations are very common, with informal renting of rooms, temporary arrangements and overcrowding. This could be related to the situation of irregularity faced by many immigrants in the beginning. It may



also relate to the usual reality of the migratory routes, relying as they do on extensive support from informal networks during the first stages of integration into the country of destination.

Reports of informal arrangements without contracts or guarantors were numerous in relation to renting rooms and apartments:

"The landlords that rent rooms do not give receipts, they don't give anything at all, so they cannot demand anything." [Chico, owner of a travel agency]

"In order to rent a room no one ever needed a guarantor. I know you and ask you, 'listen, I need a room to live in, do you know anyone?', 'oh yes, I do, go to this address and talk to so and so', and so I would go to the address, ring the bell (...) The only thing they required was for you to pay the rent as soon as you move in, as well as a month in advance. (...) That's how it worked, I didn't sign anything." [Edu, waiter]

"All of them were rented, but the only one I have a contract for is this one from Amoreiras, all the other ones were informal, all informal." [Milton, PhD student]

Some of the residential experiences presented great instability, such as those involving sharing a residence with other immigrants who were previously unknown. Some dramatic cases of overcrowding were detailed in the interviews:

"(...) But it wasn't easy, you live with people that you do not know, there were seven people, but there was a time I was living with 12 people in an apartment in Oeiras." [Edu, waiter]

The search for better housing sometimes requires some type of relationship with the informal market in order to obtain a contract. This contract can be obtained through formal intermediaries, the real estate agencies, or from individual landlords. There are a few difficulties in this field, including problems relating to discrimination:

"My boss was my guarantor because they did not want to rent anything to a Brazilian since they had had problems before. So my boss went there to talk to her and she said no. Then a client, who had previously owned a real estate agency, went there and talked to the lady (...) and said she would sign the contract and be responsible for me. Then the lady said no, there are already a lot of people trusting her, she will sign and the boss will be the guarantor." [Bethânia, manicurist and beauty therapist]

As previously identified by previous studies and confirmed by the interviews with institutional representatives, discrimination during the search for housing was a factor raised in a number of the interviews with migrants:

"Finding housing and being a Brazilian isn't easy, normally they already recognize the voice by telephone, right? They already make it difficult right there (...) I went through this many times, you call and they say the place has been rented already or they raise the price. They really make it hard." [Mônica, salesperson]

As described in the interviews, taking complaints of this type of discrimination to Portuguese authorities is not easy, despite such discrimination being illegal. In one of the cases, the respondent decided to give up filing a complaint due to the time it would have taken to do so.



In the institutional interviews, it was explained that gathering evidence that can substantiate complaints is a major challenge.

We did not find evidence of any of the interviewees owning houses. In cases like this, there is, however, another obstacle in having access to housing. Low income sometimes renders immigrants unable to obtain bank credit to buy their own properties.

5.3.4 Employment

The interviews with the immigrants investigated various issues regarding their mode of entry into the job market in Portugal, including the type of career (before and after migration), the type of contractual relationship, the degree of rotation between jobs, the manner of obtaining employment, the extent of perceived discrimination, the quality of relationships with colleagues and employers, and levels of income and savings. In many cases, the information we obtained corresponded to what was known from previous studies (see, for example, Casa do Brasil: 2004; Malheiros: 2007; Peixoto and Egreja: 2012b).

5.3.4.1 Professional trajectory

The comparison of professional occupations before and after migration from Brazil to Portugal generally corresponds to the early stages of the “U-shaped curve,” already identified by previous studies about migration (Chiswick: 1978; Carneiro: 2006). The situation is not linear, however. First of all, although some immigrants experience an upward path during their permanence in Portugal, its extent is almost always limited, meaning they remain connected to relatively unattractive segments of the labour market. Also, some reveal descending mobility in relation to Brazil, especially when they are unemployed.

Previous studies have already suggested that the upward mobility of Brazilians in Portugal is limited and that it depends on variables such as the period of residence (Egreja and Peixoto: 2011). Since many have been living in the country for a short period of time, opportunities for professional ascension are scarce. It should also be noted that the negative trajectory of the Portuguese economy after 2003, and particularly after 2008, aggravated this situation. The crisis that developed in the past years has not favoured successful paths among immigrants or citizens.

The types of occupations pursued by the interviewees confirmed that their degree of professional progression after arrival, when it does exist, is limited. Among the 26 respondents, 16 perform jobs of low to moderate skill, mainly in the services sector (including four waiters, three salesclerks and three who work in the beauty industry); two work in highly-qualified professions; five are unemployed (some of them are combining unemployment benefits with informal jobs, including cleaning services); and three are PhD students.

Many of the interviewees had educational qualifications superior to what was needed to perform their jobs. More than half of the respondents revealed being in this situation. This is true for immigrants who have a degree in journalism and wait tables; immigrants with a technical degree in nursing assistance who work as manicurists and beauty therapists; immigrants with a degree in advertising who work as salesclerks; and professionals with a degree in tourism who work at a hostel’s reception:

“No, it has nothing to do with my skills. It is just to make ends meet. (...) Ever since I arrived, I have been looking for something in the advertisement field. I don’t even think about it.” [Elis, salesclerk]



"No, no... It has nothing to do with my skills. Anyone can go there and do it. You don't even need to be fluent in English. If you know basic English, then you are good to go. All you need is to be available, (and) willing to clean, because most people aren't." [Adriana, receptionist]

5.3.4.2 Work flexibility and vulnerability

Immigrants are subjected to a great degree of insecurity by the type of contractual arrangements that they commonly find themselves in. However, there is normally a certain improvement as time goes by. In most cases, the work relationship at arrival in Portugal is informal, without a contract. This is due to the irregular status of many immigrants, but also occurs due to these immigrants having arrived recently in the country. It should be noted that irregularity does not preclude obtaining a contract; indeed a contractual relationship is one of the criteria for achieving regularization. With time, most immigrants obtain contracts that are generally temporary. In the minority of cases, permanent contracts are obtained.

Employment insecurity and precariousness are not specific to Brazilian immigrants. Many studies about the Portuguese labour market reveal its segmented nature and the subjecting of many to the negative characteristics that lead the contemporary labour markets (Kovács, 2005). As expected, immigrants are particularly vulnerable to fragile labour situations, as are other social groups, such as young people and women. As stated by one of the interviewees, "I think the precariousness is a privilege of neither Brazilians nor unskilled workers." (Nara, university professor).

The professional path of immigrants, in most cases, begins with an informal entry into the labour market, followed by the obtainment of a contract, although this may be cancelled later on. Job security is undermined by the fact that the contracts are almost always temporary and usually do not reflect the reality of the work performed. Hence, the possibility of accessing and exercising rights is very limited:

"In this cafe, I worked for a year and eight months. After four months, he signed the contract. Till then, I was working irregularly, with hardware, construction. So he signed the contract (...) and we were in this cafe for three more years (...) It was a permanent contract (...) They were rascals (...) Social security, these kinds of discounts, they paid as if I was working part-time, but I used to work 13-14 hours per day, but for Social Security it was as if I only worked part-time. They paid everything fully, but whatever they could outsmart, they'd do it." [Edu, waiter]

"(The salary) is really low, a real exploitation. Exploitation. In reality, there is an amount in the contract, but I receive a little more. It is an agreement between us. That way, if he deposits the whole amount in my bank account, the 11% I pay will be higher and so will be his. So a minimum salary is deposited, out of which we both get social security deduction, and the rest they pay me in cash." [Adriana, receptionist]

The failure to honour contracts, or refusal to enter one, is a reality in the lives of many immigrants. One of the respondents that works as a live-in care provider said, for example, "I don't have a contract. My bosses promised me (...) though they warned me they won't pay the discounts or my legal rights." (Marisa, live-in care provider for the elderly).

Informal arrangements are characteristic of the Portuguese labour market, as in other economies of southern Europe. This informality allows for easy and rapid access by immigrants



to the labour market, with insecurity being the other side of the coin. In most cases, entry into the labour market happened very fast and irregularity was not an obstacle for recruitment:

"There weren't any problems (with the fact he didn't have a visa), I think this is what they wanted so they didn't have to pay taxes, and that is what I needed, because I could not work." [Gilberto, unemployed]

Most of the respondents stated a preference for having a contract. This is due to the better access to labour rights and other benefits that are provided by contracts:

"With a document, we have more dignity to say 'no, you are not going to exploit me', 'no, I don't need this,' 'no, I have my rights,' 'no, you cannot do this to me,' a document helps a lot." [Caetano, hairdresser]

"Not having a contract means having extra money, but it's a tough situation because if you don't have a contract it is complicated, even to calculate the taxes, for health purposes, for everything else it is complicated. I prefer to be regular and receive a bit less, as long as I am regular. This enables us to walk with our heads held high." [Bethânia, manicurist and beauty therapist]

One of the specific rights entitled by a contract is precisely the possibility of regularization by the authorities. Portuguese laws have for many years allowed this route to regularization, and this explains the interest of immigrants in signing a contract, even if it is temporary:

"I left (my previous job) because I did not have a contract to regularize myself. So someone recommended this other restaurant to me (...) I signed the contract before I began working and after five months I began the legalization procedures and less than a year later I was regular." [Erasmus, head waiter at a restaurant]

Nonetheless, as pointed out by one of the institutions interviewed, the high insecurity of employment relationships can lead to an intermittent path between formal and informal relationships. This situation has caused problems, for example, regarding the renewal of residence titles, as well as the access to opportunities for regularization.

The high level of work insecurity is also confirmed by a highly elevated degree of rotation between jobs that was identified in this study. The lack of contracts, the predominance of temporary contracts and the search for improved work conditions and income levels explain why most of the interviewees reported numerous employment experiences, with very short periods of stay in some of them.

Finally, job insecurity can also generate extreme cases of illegal exploitation. As confirmed by one of the institutions we contacted, both regular and irregular immigrants can report such violations of rights to the authorities – leading to no penalization for irregular migrants. However, "the fear, the lack of information and the extreme bureaucracy" can prevent these complaints from being filed. Although people have rights, they do not always exercise them.

5.3.4.3 Employment search

Securing a first job is almost always achieved through informal means, which is not surprising, given the predominant migration strategies. With time, there is an improvement in formal procedures, although informality is still very common in the sectors of the labour market in which immigrants are mainly involved.



In the case of a first job, in most cases we found a situation in which people received information and accepted offers made by friends who were both in Brazil and in Portugal. The social capital of migrants is decisive in this stage of the migratory process:

"A friend of mine from Brazil had a friend who owned a business here in Portugal and needed a website, so he recommended me." [António, PhD student]

"My friend said, 'Staying home is not going to help you, let's go out, I know some people that you can also contact. You meet some and I present you to others.' So we got to a cafe, there were some friends of his there, and he said, 'This is my friend, he just got here and he needs a job, blablabla', and then ok, I made a contact, the next day in the morning his friend asked him, 'Does your friend still need a job?,' 'Yes,' 'So tell him to come here right now,' and I was sleeping, I wasn't expecting anything, and then he said, 'Tell him to come right away, one of the employees didn't show up and he can get this opening'." [Edu, waiter]

In some cases, however, people get into direct contact with businesses in Portugal through personal delivery or emailing of resumes. For instance, one of the respondents sent her resume directly to the director of human resources at the company where she works:

"This resume for O Boticário, I didn't even deliver in person, I was searching online and I discovered the recruiting office's email and sent it directly." [Elis, salesclerk]

There are numerous evident strategies for obtaining jobs, including the diversification of informal networks and access to the formal market (responding to ads placed in newspapers and on the internet). The use of informal networks is still predominant and it has become more embedded based on contacts with Portuguese individuals:

"So I thought, since I already do marketing for them, why not do marketing for myself? So I began writing on a piece of paper, 'I clean, I babysit, I take care of elderly people, I iron clothes,' and then someone called me, someone else passed it on to a friend, and so on." [Marisa, live-in care provider for the elderly]

5.3.4.4 Discrimination

Questions regarding the relationships between immigrants and their colleagues and employers yielded positive answers in most cases. Since entry to the labour market occurs mostly in small- to medium-sized businesses and is frequently made possible through relationships with other immigrants (as employers or, more frequently, colleagues), it tends to compensate to some degree the issues of job insecurity and precariousness discussed above. Some of the most favourable answers we obtained clarified that:

"It was always good, they are still my friends. They were the ones that got me jobs." [Chico, owner of a travel agency]

"It was a great relationship, really good." [Bethânia, manicurist and beauty therapist]

"Really good, it is like we were family, even when I wanted to leave and afterwards came back, they took me in with their arms wide open." [Adriana, receptionist]



A group of questions about perceived discrimination in the labour market elicited diverse responses. The questions pertained to discrimination based on nationality (Portuguese/foreigners), gender (men/women), legal status (regular/irregular) and level of qualification (skilled/non-skilled).

About half of the respondents admitted suffering some sort of discrimination based on nationality. Some of the replies were clearly affirmative, sometimes expressing the basic difference between Portuguese nationals and foreigners, others referring to the peculiarity of the relationship with Brazilians (prejudices and stereotypes which they are subject to) already emphasized by other studies on the subject (Machado: 2003):

"Oh yes, there is always some; always. Always the Portuguese, when the owner is Portuguese too, they always get more privileges. He misses work, the country is his, he does whatever he wants, we the immigrants try not to do that so that we don't get reduced pay at the end of the month, we already make so little..." [Zé Renato, waiter]

"Here, before anything else, there is a classification before they know your name, you are Brazilian, not that it is bad, but sometimes dealing with this identity the whole time is complicated, there is a daily struggle to ease the stereotype, to dismantle the stereotype, to fight against prejudice, to say that Brazilians have a lot of characteristics and not just one. Here your nationality is the first thing that you expose, you open your mouth and it's over, your nationality comes before anything else. I think this happens with the Portuguese ID, but in a different way, on a second contact." [Milton, PhD student]

Nonetheless, some responses revealed an improvement in the situation of constant discrimination. This could be a consequence of the normalization of Brazilian migration to Portugal or of the personal experience of the respondent. Others stated that discrimination is common to all contexts or that the experience of discrimination is not generalized to all kinds of immigrants, further increasing the inequalities already present in the Brazilian society.

However, other responses did not report direct discrimination:

"I have never seen in the marketing field any discrimination for being Brazilian, Spanish, Italian. (...) If you want me to talk about discrimination, I can talk about it because I know it exists, but it has never happened to me." [Chico, owner of a travel agency]

In relation to gender-based discrimination, the majority of the respondents confirmed that the greatest difficulties were faced by Brazilian women; this is in line with what has been repeatedly described in contemporary research (Padilla: 2007; Silva: 2012; and others):

"The status of being a Brazilian, female; gender has a great weight, at least three years ago it did, I felt this a lot, just because of my accent, I felt that by simply saying 'good morning, good afternoon, can I help you' at the beginning of a conversation was aggravating (...) from all sides (...). The impression I have is that you need to prove yourself a lot, you need to live with the Portuguese for a while so that they can trust you. (...) I got to the point where the store owner called me and asked me to be less friendly." [Dalva, PhD student]



"The discrimination is equal (...) But women are more exploited because everyone thinks all Brazilian women are prostitutes, opportunists, so things kind of go this way, I think everyone comes here searching for a better life, and then they suffer this type of prejudice." [Caetano, hairdresser]

Responses on this topic were varied, some saying the situation has improved with time or that it applies to others but not to themselves (in this case, the women who were interviewed); some consider this a common problem in other contexts or even deny the existence of discrimination:

"Yes, like I said, there is none of this nowadays, people have a different view now, but in the beginning there was a lot of it." [Bethânia, manicurist and beauty therapist]

Questions relating to discrimination along lines of legal status also revealed divided opinions. Some of the respondents admitted, as expected, that the situation of irregularity increases vulnerability to exploitation and abuse, given the fragility of the residence status. The feeling of "fear" by the immigrants was a recurring expression:

"Those who aren't regular are exploited a lot. In all senses, they suffer a lot." [Caetano, hairdresser]

"We work in fear. We are afraid of the inspectors visiting our worksites, the person is at risk of being deported. (...) I felt safer when I became regular (...) When I was working at construction sites, I was making 3 euros per hour, while others made 4, 4.5 euros per hour working there. This is because I was undocumented." [Torquato, waiter]

"I think it's scary, you know? To even look for something better, so they go and find worse positions, let's call it subordinated, afraid because they do not have documentation, so they look for jobs that are more informal." [Elis, salesclerk]

Other interviewees referred, however, to the existence of some equality in the treatment given to immigrants with regular and irregular statuses. In some cases it is a "low levelling": job flexibility and insecurity, along with various other types of informalities, are so pervasive that they apply to all migrants, regardless of residence status. In other cases, there are specific situations, like those of students that enter the labour market and receive better treatment:

"Yes, I remember when I didn't have [a legal status]. They demand more, tell people to do more things, I think they humiliate you even more. But a document doesn't change much." [Zé Renato, waiter]

"No, I don't think so. In my case (when working irregularly, without a contract) I never felt it, maybe because I was getting my Master's, the fact that people knew I had a degree made a difference." [Milton, PhD student]

Finally, in regards to the discrimination between skilled and non-skilled workers, most responses described the existence of a difference:

"Obviously, when you have better skills, you have greater opportunities." [Gilberto, unemployed]

However, the "low levelling" already described seems to suggest that, in many instances, having qualifications is not necessarily relevant for a person's employability.



5.3.4.5 Income and savings

Interviews included questions about the relationship between income and living standards, including the cost of living and the ability to save money. One of the questions inquired whether the family's monthly income was "enough to live on" or not. The answers differed, being divided between a positive evaluation and a negative one, though almost all stated that the economic crisis deteriorated their financial situation. Curiously, most of the positive answers came from men and most of the negative ones came from women. This may be explained by the fact that women tend to have lower salaries than men (Peixoto: 2008).

Some of the interviewees positively evaluated their incomes. In many cases, the respondents said their level of satisfaction had increased as their professional paths had developed, while almost all said the recent economic crisis affected their income levels.

"When I got here it was better, I mean, it's like the crisis wasn't there, it was really good, but now things are more complicated, but all my life in Brazil we went through crises, so to me what Portugal is going through is not something different, the condition's degraded, but still its quality is better than Brazil's. Here we are able to have dignity to live, to study, to have access to culture and we can do it all with quality." [Caetano, hairdresser]

"What I make is enough, I can maintain myself. Sure, sure." [Bethânia, manicurist and beauty therapist]

Sometimes people stated that their incomes were insufficient. Broadly, they said it is very little money for a lot of work:

"It was adequate, because for the first two months I was getting €300 to work all night long, 10 hours per night, but then they raised it to €500. Then it was a lot better, but very tiring... Sometimes I had to work extra hours, but didn't get paid for them." [Milton, PhD student]

"No, sometimes we stand on our feet for many hours... But from what I have noticed, the stores pay more or less what I get. It is adequate for the type of work I am doing and for the amount of hours I work, though I don't think it is fair; no, I don't." [Elis, salesclerk]

"I would starve if I depended on my salary." [Mônica, salesclerk]

Given the financial rewards of their work, most interviewees had only a limited ability to save money, both in terms of remittances as well as increased savings in Portugal. Previous studies discovered an elevated volume of the remittances sent by Brazilian immigrants in Portugal to their country of origin (Rossi: 2004; Peixoto and Marques: 2006). Conversely, as confirmed by the numbers presented at the beginning of this study, the deterioration of the economic situation has led to a decrease in remittances. Also, the longer-term establishment of migrants in Portugal could explain this variation.

A significant number of interviewees stated they did not send remittances – approximately a third of them. In one of the cases, the respondent said he needed an inverse financial flow for his subsistence in Portugal:

"On the contrary, my mother had to send me money every once in a while, during a hard phase." [Chico, owner of a travel agency]



5.3.5 School and education

The level of education of this study's respondents is slightly higher than that found by more comprehensive studies of Brazilian immigration in Portugal (see, for example, Peixoto and Egreja: 2012b). Among the 26 interviewees, one has an incomplete high school education (equivalent to the Portuguese 12th grade), 16 have a high school diploma, two have an undergraduate degree, six have a graduate degree and one has a PhD. The proportion of interviewees with a high school diploma is similar to that of previous studies, but the portion that has a higher level degree is greater. It must be emphasized that some of these degrees were obtained in Portugal, since many of the interviewees came to Portugal in order to study. At the time of the interviews, three were PhD students, some of whom had just received a Master's degree.

Only a minority of interviewees reported having had experience with the Portuguese education system. Most of those have had this experience by registering for and taking upper level courses or, less frequently, by enrolling their children in schooling facilities, especially in elementary education. In both cases, the level of satisfaction is generally high.

In the case of immigrants that were, or currently are, Master's and PhD students, their perspectives are usually positive. For example, one of the respondents said:

"The university was very easy, I didn't have any problems. (...) my relationship with the professors was very easy, I didn't have any issues." [António, PhD student]

Regarding the elementary and pre-kindergarten schools, either no problems were reported, or they were similar to those faced by Portuguese nationals. For example, one of the respondents who enrolled his daughter in a daycare facility said:

"Daycare, which is a basic right, was simply unavailable. But this is a problem faced by everyone." [Gilberto, unemployed]

The actual lack of access to the educational system for irregular immigrants (or their descendents) was not evident from the individual interviews. As for student migration, the procedures for regularization are usually fast. Interviewees stated that, in some cases, the universities accept the enrolment of Brazilians even while they are undergoing legalization procedures. They also said that the Portuguese immigration authorities usually expedite the process. As for the immigrants' wards studying in elementary schools, public schools accept their enrolment regardless of their parents' legal statuses; however, some of the institutions we interviewed stated that irregular immigrants could be prevented from having access to education, though it is not a common practice. Obtaining a diploma could be the children's and their parents' route to becoming regular (Acosta Arcarazo: 2012). In any case, an irregular status impedes access to scholarships.

Another aspect of the educational system touched upon by the interviews was the validation or recognition of diplomas. Most interviewees did not have this experience, either because their occupation did not require it or because a higher education diploma is usually not validated at the time of enrolment in a higher education establishment in Portugal.

However, some of the respondents aired complaints about this process:

"I think this is a joke, a diploma in Portuguese from a public university must be recognized. (...) A public institution, from the state, from the Brazilian government, easily identified, audited and located and it is not valid here



in Portugal. I would have to go through another three of years of university studies in order to get my diploma recognized (...) I don't even intend to validate it." [Gilberto, unemployed]

5.3.6 Healthcare

In order to evaluate the situation of irregular immigrants, a set of questions addressed the health system in Portugal. They referred to the need for access to the system, the situation that caused the need for access, the manner of treatment and the interviewee's legal status at the time. We know that the Portuguese legislation allows access to the public healthcare system to all immigrants, regardless of their legal statuses (Acosta Arcarazo: 2012), but we wanted to confirm this in practice.

Almost all respondents had had some contact with the Portuguese health system, whether at health centres, public hospitals or at private hospitals. The choice of one type or another depends upon the individual's financial capacity and migration strategy; some of the respondents who were students (or those who came to study) said they came to Portugal with a private health insurance and therefore used the private health system. The reasons for using healthcare varied greatly, from emergency situations to regular doctor appointments. For legal immigrants, using the public health system did not present any problems, other than issues with delay and general quality of treatment, factors that are not specific to immigrants. Some compared this reality to that of other countries, including Brazil. Other complaints are related to the payment of fees for the public service, common to all including Portuguese citizens. That is why some of the immigrants use the private health system whenever possible.

"I think the service is good, sometimes it takes a while, but public service is like this everywhere (...) I always got treatment, I get a number and take the tests, in this sense I do like it." [Bethânia, manicurist and beauty therapist]

"It has always worked well for me, considering it belongs to the state and is public, it works very well, but when it is something more urgent, like a dentist, I pay out of pocket (...) I think the public service here is better than there (Brazil)." [Chico, owner of a travel agency]

The interviews confirmed the access of irregular immigrants to the public health system. Many of the interviewees had to get treatment while they were still irregular in the country, and none of them faced obstacles. The issue with identification was not a problem. One interviewee stated, "They ask for an ID and we show our passport." (Rita, hairdresser). The only problems related to payments; in the case of an appointment or examination (non-urgent treatments), if the immigrants are irregular, they have to pay while those who are regular do not. Yet, in some cases, the prices were similar to those that regular immigrants had to pay. Some of the testimonials collected are eloquent:

"I was treated very well. (...) I had this pain in my chest that just wouldn't go away, it started getting worse. 'What is this?', I went to a doctor at the São José Hospital. When I got there I thought, 'Oh, I'm Brazilian, they will make me wait for three days.' About an hour later I was seen by an exemplary doctor, that place was packed, full of people, and they took me in, put me there, did an exam and took me to get an x-ray, treated me like a king. There is a little fee you have to pay, I even paid extra." [Edu, waiter]



"They asked me for a document and I said, 'Look, I don't have one', and they said 'OK, it's not a problem,' because I went there in a hurry. So I got there, they sent me to the room; I got admitted (...) I was under observation and left the same day. They only asked for my address. I had to pay, the bill was sent to my house. (...) since I was in bad shape, they sent me to the room right away, began doing the examinations, gave me an IV medication and all, but if I was OK it would take a long time (...) The treatment was the same." [Erasmus, head waiter at a restaurant]

"It was great, I don't have any complaints, even though I was illegal, without a contract, I was treated very well (...) They asked for my passport, saw it, they could have turned me in, but they didn't, I was treated very well (...) I used to pay the minimum taxes, as if I were a Portuguese citizen, normally undocumented people pay more, but I was lucky, because if you are illegal you pay extra, I don't know what happened." [Caetano, hairdresser]

Despite this evidence, some of the institutions that were interviewed stated that irregular immigrants are not always successful in obtaining treatment in the public health system due to "misinformation and unwillingness" on the part of providers. Also, the fees charged are at times higher than what is anticipated by law. These testimonials confirm results from previous studies on the subject (see, for example, Bäckström et al.: 2009). Hence, we encourage that health organizations receive better dissemination of information about the rights of irregular immigrants.

Another specific problem that was raised in some of the interviews with individuals and institutions was that people in Portugal do not know about the PB-4 form (Certificate of Right to Health Care, *Atestado de Direito à Assistência Médica*), a social security agreement signed by Brazil and Portugal granting healthcare assistance, which is usually used by students. Many workers, doctors and nurses in Portugal do not know about this programme, and this has hindered the access of Brazilian students to healthcare.

5.3.7 Access to social benefits

Regarding access to social benefits, the survey included questions about the use of official facilities that provide support to immigrants and, as an alternative, the immigrant associations; enrollment in social security, receipt of social benefits and use of public job centres (for those who were unemployed); and knowledge about the possibility of transferring social security benefits to Brazil.

5.3.7.1 Pro-immigrant organizations

The need for official facilities for immigrant support in Portugal gave rise to the National Immigrant Support Centres (*Centros Nacionais de Apoio ao Imigrante, CNAI*) and the Local Immigrant Integration Support Centres (*Centros Locais de Apoio à Integração de Imigrantes, CLAI*). Both are part of a network centered at the High Commission for Immigration and Intercultural Dialogue (*Alto Comissariado para a Imigração e Diálogo Intercultural, ACIDI*), the main governmental entity working towards the integration of immigrants. The interviewees were not questioned about the social entities of required contact, including the Foreigners and Borders Service (*Serviço de Estrangeiros e Fronteiras, SEF*), nor were they questioned about other specific services from ACIDI.



Most respondents have visited one of the CNAIs (normally the Lisbon one, where the interviews were conducted). These entities bring together the various components of the support provided by the ACIDI – assistance with job-seeking, legal support, recognition of diplomas, among others – and integrate other services, including the SEF. Therefore, some of the visits to the CNAI originated from a need to contact the SEF, which partially deflected the objectives of this study. One of the particularities of the CNAIs is the existence of a cultural mediation service, where mediators from immigrant associations of various nationalities provide the primary assistance for immigrants. Also, it is notable that all immigrants, regular or irregular, have access to the CNAIs (and CLAIs), although the extent of support depends upon their legal status. Finally, it should be added that these services have been praised internationally as good practice under European policies for the integration of immigrants. One of the non-governmental institutions we interviewed even said that CNAIs are “a fantastic thing that improves the lives of many people.”

Most CNAI visits resulted from the need to solve specific problems. In many cases, these visits achieved their objectives:

“I went to the CNAI, it was OK, no problems. I needed information about the statute of rights and equality. So I went there, they informed me, gave me the correct information, and I placed my request. It was OK.” [António, PhD student]

“I didn’t go to there to find out about my rights, but to resolve this issue with the authorization.” [Elis, salesclerk]

In some cases, the references to the CNAI’s services were enthusiastic:

“It was the first thing I did... whenever immigrants go to the CNAI, they help a lot. They helped me with what I needed and even what I didn’t need; I usually don’t listen to anyone, but she said it right away, gave me the documents and that’s it.” [Mônica, salesclerk]

“I was treated very well, they are very helpful, gave me a booklet. If I wanted to, I could ask for a visa through them, they gave me a list of documents, but we never did it.” [Adriana, receptionist]

Some other experiences with the CNAI were less positive. Most of the complaints aired were related to delays and service issues; again, these are aspects that could have been generated from the usual characteristics of public services, which in this case cater solely to immigrants. Some negative responses refer to the SEF, an entity that often receives criticism from immigrants:

“Going to the CNAI to renew the SEF, it was my first and last time, I won’t go back, I don’t recommend it. Very bad service, they are very unhelpful (...) They aren’t clear, very unhelpful when providing information, it takes a long time. I went there twice, the first time I waited four hours, the second I waited six; it’s a lot of time. The place is weird, the sound-proofing is bad: you hear everything from fights to discussions, people talking a lot.” [Dalva, PhD student]

“It’s very stressful, you bring all the papers and when you get there, they come up with something.” [Nara, university professor]

In some cases, including immigrants who have been residents for a long time, respondents had no knowledge of the CNAIs and CLAIs:

“I have never heard about it.” [Edu, waiter, and Erasmo, head waiter at a restaurant]



While using the official structures for immigrant support is not a widespread practice, approaching immigrant associations is even rarer. The majority of the interviewees have never resorted to any of the Brazilian immigrant associations, or to any others in Portugal. In some cases, they do not even know that these associations exist or that they can provide solid support to the immigrants. In extreme cases, however, attempts could be made to approach these associations. One institutional representative cited a Brazilian proverb, “People only remember Saint Anthony when thunder rumbles.” Even so, the resolution of the problem is not always guaranteed.

Still, the role of immigrant associations, which is most of the time low-profile and unacknowledged, has been praised by one of the institutions we contacted: “They are the best and they work as well as they can.”

5.3.7.2 Social benefits

The access to social benefits provided by the Portuguese state was examined through questions about registering for social security and receiving some type of social benefit.

Almost all respondents were enrolled in the Portuguese social security system. This is not surprising because it is well known that legal immigrants normally enroll in social security, as do illegal immigrants occasionally, whether for salaried or independent work. In the latter case, proof of payment of social security fees is one of the most important conditions for obtaining legalization with the SEF. All legal and most illegal immigrants interviewed were enrolled in the system.

Given this condition, about half of the respondents had already obtained, or were in the process of obtaining, some type of social benefit. Of the five respondents who were unemployed, two were receiving unemployment benefits and one was awaiting a response to his application. Due to reduced subsidies, especially for those who had only contributed for a few months, two of the interviewees that were receiving benefits combined them with some form of informal employment; this is a relatively common situation in the Portuguese society:

“Without ‘working’, I have been receiving benefits for two years... because I always do something here and there, to complement it. I’m not currently doing it, but a short while ago I was working at the theatre, with polyforum lights, I was there for four months and now I haven’t done anything for the past three months (...) but I always do other things, I do security gigs, I do any kind of work, if I get invited to work on construction I will go, too.”
[Marcelo, unemployed]

In addition, some of the interviewees who had been unemployed also had access to unemployment benefits. Sometimes, given their short period of work in Portugal, they could not receive these payments because their period of contribution was too short. In one of the cases, the person could not obtain the benefits because of his irregular work status (even though he was enrolled in social security and paid the contributions, he could not work regularly because he only had a student visa without a work permit). In another case, the person could not obtain the benefit because she had asked to end her employment, which prevents her from claiming it.

Furthermore, access to unemployment benefits is related to the use of public job centres. More than a third of respondents had used these facilities while unemployed. Some complaints were aired about the provisions, but they are not generally specific to immigrants:



"I was disappointed by the jobs offered at the job centre, because it is something financed by the social security, it costs 35% of a person's salary and I asked if there were any courses available, language courses, informatics, but no, there was nothing, no type of vocational guidance, nothing. The only thing they had was for people who only had a high school diploma." [Gilberto, unemployed]

In short, immigrants' relatively easy access to the Portuguese labour market, as a result of job insecurity and informal practices, can be relatively virtuous in times of economic growth, but can also be particularly burdensome in periods of crisis. For many years, immigrants have been able to resolve their problems through "job hopping," normally with support from informal networks. However, with the worsening of the economic crisis, their living conditions have become more difficult. Regardless, it must be emphasized that the right to obtain social benefits has always existed for regular immigrants and that enrollment in the system has always been one of the conditions to obtain regularization.

In addition to unemployment benefits, some of the other interviewees have already had access to other types of social benefits, including family allowances (a subsidy given to those who have minor children), maternity and paternity leave, and paid sick leave.

Also, access to social benefits only exists for those who have legal status: only regular immigrants can receive subsidies and seek support from job centres. However, given the relative ease of obtaining legal status, we can assume this is not a large scale problem.

Almost all immigrants know about Portuguese social security benefits and the majority of them know that they can transfer their contributions to Brazil. However, there are a lot of prominent information gaps. We asked the immigrants if they knew that "the contributions to social security in Portugal [are] valid in Brazil." About two-thirds of the respondents said yes, although in some cases they had "only heard" about it:

"A friend of mine that went to Brazil said he got his declaration of social security and took it to the Consulate to be validated, then when he gets to Brazil he will present it and transfer the contributions." [Torquato, waiter]

"I know you can consider the period of contribution, but I don't know how the process goes." [Chico, owner of a travel agency]

In some cases, respondents admitted to having no knowledge about the process:

"No, I am not sure about it. I have heard something about it, but nothing that I can be sure of." [Bethânia, manicurist and beauty therapist]

5.3.8 Perception of social and political rights

The immigrants were questioned about their degree of knowledge regarding their labour, housing, education and health rights, as well as their political rights. Questions on political rights included the statute of equality between Brazilian and Portuguese individuals, established by the Treaty of Friendship, Cooperation and Consultation (*Tratado de Amizade, Cooperação e Consulta*) between Brazil and Portugal, signed at Porto Seguro in 2000. Awareness of rights among the Brazilian community in general is varied. According to one of the institutional representatives, "Brazilians do not know their rights, I can affirm it categorically." According to another institutional representative, it is difficult to make such generalizations because "the Brazilian community is very heterogeneous regarding



information and the need to access their rights." This heterogeneity was confirmed by the interviews with the immigrants.

With respect to labour, housing, education and health rights, less than half of the respondents claimed some degree of awareness. Generally, they were those who had been forced to inform themselves due to immediate necessities. Nonetheless, an important divide arises from the fact that those with the highest level of qualification showed a greater knowledge of the subject. Still, a thorough examination of the interviews shows that knowledge about rights results mainly from the emergence of specific needs. Therefore, almost all reveal a reasonable knowledge of Portuguese legislation whenever it is related to specific interests, such as the possibility of acquiring social benefits or Portuguese citizenship.

Some interviewees demonstrated a broad awareness of rights. This knowledge stems from strong social networks and also from the accumulated experience of immigration. Several of these responses came from immigrants who are more educated or have better employability:

"I have, vaguely, maybe I have. Health, yes, work, yes, civil rights, yes, I know about the Treaty of Friendship between Brazil and Portugal. I have even taken advantage of consumer rights." [António, PhD student]

"Now, I believe, I have the same rights as the Portuguese. I have reasonable knowledge, I should know more." [Nara, university professor]

"Now I do. (...) After going through all I did, trying to regularize. No one can fool me now." [Caetano, hairdresser]

Other immigrants admitted their ignorance of rights in general. This was more prevalent among unskilled and undocumented migrants:

"No, of course not. (...) We know a few rights, but not in depth." [Edu, waiter]

"I knew that anyone who gets sick in any part of the world, doctors are obliged to give treatment, as it was in my case, the doctor said he was getting tired of me. I know about this, but I don't know about other things." [Zé Renato, waiter]

"I only know unofficially from what others say, but I never tried to find out more; it's a mistake, isn't it?" [Elis, salesclerk]

As for political rights, Portuguese law allows all regular foreigners to vote at the municipal level, provided there is a reciprocal arrangement in the country of origin (as is the case of Brazil). In the case of Brazilians with the statute of equality, they can also vote for national elections. The degree of awareness of these rights is low; such awareness is more common among educated immigrants. As expected, this lack of knowledge contrasts with a greater knowledge of political rights in Brazil. However, most of the interviews reveal that there is a relative lack of interest in claiming these rights.

Few immigrants declared knowing all of their political rights. Even when they had this knowledge, they admitted to not exercising their rights:

"I know that in order to vote I need to be here for two years, then I can register to a parish council and participate in the elections. But with the statute, I cannot run for political offices, but I can work in public institutions and vote. (...) I haven't voted in a long time, neither here nor in Brazil." [António, PhD student]



Nonetheless, in most cases the respondents demonstrated minimal knowledge and interest in relation to their political rights:

"Voting... only for my country... there in the Consulate, for Dilma (...) But I think I cannot vote here." [Zé Renato, waiter]

"Voting here for Brazil, all we have to do is to confirm it at the Consulate. But for Portugal you need to have the Portuguese ID and be a citizen." [Erasmão, head waiter at a restaurant]

"No, I didn't know we could vote last year (for the elections in Brazil), that there were some ballot boxes (...). But here in Portugal I think I cannot vote, I don't even know." [Bethânia, manicurist and beauty therapist]

5.3.9 Social networks and daily life

The vast majority of the immigrants interviewed do not have a nuclear family situation in Portugal. Among the 26 respondents, 17 were single (of which one had children), five were married, two were in a *de facto* union and three were divorced. Out of the total, only six had children. This profile does not differ greatly from the demographics revealed by other research on this topic, consisting mainly of young adults who have recently immigrated, without children.

Other family ties are also scarce among immigrants in Portugal. Only a few of the interviewees have relatives in the country. These are usually siblings or cousins who are sometimes part of the same migration network.

During the interviews, we also asked if the immigrants were responsible for or dependent on someone in Brazil. Most responses were negative for both. Most respondents did not have such a connection, which could suggest greater freedom in setting the future migration strategy. The few connections mentioned included parents in Brazil, to whom most interviewees said they send remittances.

As such, the role of autonomous social networks is significant. These seem to be very diverse. No regular pattern was identified in the interviews. Most networks are either mixed or consist exclusively of Brazilians, the former also incorporating Portuguese individuals and other immigrants (including Africans). However, in several of the interviews, respondents mentioned networks with only Portuguese (or predominantly Portuguese) individuals.

Variables that fully explain the choice for any of these networks could not be identified. Perhaps counterintuitively, we identified unskilled immigrants (maids, for instance) in networks mainly composed of Portuguese individuals and skilled immigrants (PhD students, for example) in networks mainly composed of Brazilians. Immigrants with longer durations of residence tend to favour networks including Portuguese individuals, with more recent arrivals tending to find themselves in Brazilians-only networks.

The existence of some possible internal tensions with the Brazilian community was also evident in one of the interviews:

"I normally don't identify myself with the majority of the Brazilian immigrants here in Portugal." [Gilberto, unemployed]



5.3.10 Return to Brazil

Despite an often unstable labour situation and the economic crisis that has deteriorated conditions in recent years, only a minority of the respondents expressed intentions to return to Brazil. Others were undecided in this regard, but most expressed desire to stay in Portugal.

Some of the interviewees had set plans to return:

"I want to return this coming January. I am already getting ready to go back. There are many reasons why. I'm 35, Brazil is undergoing a boom, I need to get somewhere, either I recede or I go forward, I need to get somewhere. (...) I have ideas, I have a country that is developing, I have some cash to give me a head start (...) This is my idea and now I will go back and open up my own business, which is my dream." [Edu, waiter]

Others expressed indecision:

"Sometimes, due to Portugal's economic situation. I don't think I'll find a job in the next year and a half. (...) There is also the saying that 'Brazil is the Mecca of the world's economy.' (...) But if I stayed in Lisbon I would be happy." [Milton, PhD student]

Nevertheless, the majority affirmed that they did not want to return, due to their relatively good labour conditions or the perception of superior living standards in Portugal:

"In 2010 I thought, 'I will go back to Brazil because it's good there, we see in the news that the country is developing, I'm going to attend a university' (...) I got there and was disappointed, things were not pretty. When you are used to living with the euro, buying things with euros, it's a lot cheaper than living there spending reals, earning reals. I went crazy, clothes, shoes, food, I went insane. (...) I began working as a cashier at a supermarket, didn't make good money, I got a little over 600, when I got my first salary what did I do? I went to a travel agency just to see the price. So I saw the price and the lady asked, 'Do you really want to go back there?' and I said, 'Yes, I do.' I cannot adapt to Brazil anymore." [Marisa, live-in care provider to the elderly]

"I don't even know why, maybe because I live in a country town and it is very complicated to get a job and surely if I go back I won't get a job, stuff like that. I don't know, here I have a better living standard than what I used to have, for sure." [Bethânia, manicurist and beauty therapist]

Interviewees were also asked whether they knew about the Voluntary Return Programme, coordinated by the International Organization for Migration (IOM). It is known that the vast majority of immigrants supported by this programme are Brazilians – in 2011, 500 of the 594 immigrants they assisted were Brazilians (SEF: 2012). The opinions of interviewees were divided, but many of those who knew of the programme said they did not intend to use it, mainly due to the associated restrictions:

"The one from SEF? That the person has to stay away for five years? I know about it." [Rita, hairdresser]

"I've heard about it, but I think it's a degrading situation (...) it seems like something related to war refugees, obviously if the person doesn't have another option..." [Gilberto, unemployed]



5.3.11 Acquisition of Portuguese nationality

As stated by Arcarazo Acosta (Arcarazo Acosta: 2012 – see chapter 4 of this publication), Portuguese legislation on access to citizenship underwent major changes in 2006. These simplified and made easier the procedures for acquiring citizenship. One area in which a constraint was maintained was the knowledge of the Portuguese language, which is still required of all candidates. But in the case of immigrants from Portuguese-speaking countries, this is not a problem. As a result of the new legislation, applications for and acquisitions of citizenship boomed. Though still unknown in precise figures, a large number of Brazilians now hold a Portuguese citizenship. Brazilians make the most such applications for citizenship (SEF: 2012). Holding dual citizenship has become very common.

The immigrants' interest, reasons and any difficulties in acquiring citizenship were also discussed. Interviews showed that an interest in this option is common to almost all immigrants. The reasons tend to reflect that having Portuguese citizenship allows for greater freedom of movement between Brazil and the European continent as well as within the European Union, relieving citizenship-holders of formal documentation requirements. We also noted an increase in the awareness of citizenship and feelings of belonging to two places.

The process for obtaining citizenship seems simple because no significant difficulties were reported. One of the institutions we interviewed recalled that, in the case of Brazilians, the process is simpler than it is for other nationalities because they accept documents (including criminal records) issued by the Consulate in Portugal.

The immigrants were also asked about whether they would be willing, under any circumstances, to give up their Brazilian citizenship. This possibility was rejected unanimously.

Among the 26 interviewees in this study, six had dual citizenship (Brazilian and Portuguese). The circumstances and the reasons given are similar, although their degree of "instrumentality" is variable. In some cases, citizenship is seen as a mere formality, while in others, a divergent civic behaviour or transformed identity is evident:

"Nationality is only relevant to me from the formal point of view; obviously, even though I live here I find it weird to say I am Portuguese." [Gilberto, unemployed]

"Everything changed. The day I received it, all of my friends, whenever they get their citizenship, we throw a party and it is a moment of joy. Nothing compares. For all it entails, not having to go through customs at the airport, not to have problems for finding a job and I also feel very confident, when someone yells at me I don't... once I saw a confusion inside a bus, someone was screaming at a black man, telling him to go back to his country and that drove me crazy. I went there and told him that if he wanted, I could be a witness, but I only did that because I was a citizen. (...) I am Brazilian and a good part of me is Portuguese." [Nara, university professor]

Among the other interviewees, most said they were considering applying for Portuguese citizenship. Their motives were mostly pragmatic, though in some cases they admitted wanting access to a wider set of rights (including political ones) and feelings of dual belonging:

"If I had the Portuguese citizenship, for example, today I'd think about going back to Brazil to spend some time there, then some time here. The only reason why I don't go now is because it would be hard to come back. I know that the authorization to go there only lasts for a short time. And with the



Portuguese citizenship there are also other countries that I can go in and out (of). It's a letter of emancipation." [Caetano, hairdresser]

"Yes, next year. It's another opportunity to work abroad, isn't it? With this document I can work anywhere in Europe." [Zé Renato, waiter]

"It wouldn't change anything, I would still be Brazilian." [Mônica, salesclerk]

"It's a right that we have, I think it's not too hard, I feel like I'm a Portuguese citizen, I'm part of this here, I call it mine, I already share both countries. (...) (But Brazil) is my identity." [Dalva, PhD student]

In only two cases was the option of Portuguese citizenship dismissed. But the motives stemmed exclusively from a desire for a quick return:

"I have thought about it, but I don't know if would be able to spend five years here." [Adriana, receptionist]

5.3.12 Value of institutions

The immigrants were questioned about measures that the Portuguese and Brazilian governments could take to ease the processes of immigration and integration. The policies of immigration and integration, the immigrants' access to social services and benefits, and the agreements between Portugal and Brazil (including the "Lula Agreement") were broadly praised. Criticisms were generally directed more towards the Portuguese population than official authorities:

"What is the problem faced by Brazilian immigrants here? The problem that the immigrant has here is mostly from the moral point of view than anything else. You always have access to work but sometimes you have problems finding housing. The greatest problem faced by immigrants I think is the social relationship with the Portuguese people and not with the government." [Antônio, PhD student]

"The Portuguese government does not hinder the immigrants like that. I don't ever see anyone complaining about the Portuguese government for harming immigrants. Health(care) is good and so is education, I see Brazilian children who already speak English and if they were in Brazil, they wouldn't. Security is also good, I feel safe in Portugal. I didn't look for education, but from what I've heard..." [Edu, waiter]

"I think the government does a lot around here." [Chico, owner of a travel agency]

A slightly bigger group of interviewees suggested, however, that several improvements should be made by the Portuguese government. These included the simplification of the migration processes, increased opportunities for regularization, shortened periods of social security contribution to obtain benefits, easier access to citizenship, better job centres and more job opportunities:

"They tolerate it because they need it, so I think they should cut us some slack and facilitate the legalization process." [Caetano, hairdresser]

"I don't know about the Portuguese government. I think maybe simplify the legalization process." [Marisa, live-in care provider to the elderly]



"The policies help the Portuguese more than us; we immigrants don't have the right to anything. (...) The Portuguese government doesn't offer us anything." [Erasmio, head waiter at a restaurant]

In general, the institutions we interviewed appreciated the Portuguese government's role in this area. One representative of a non-governmental institution said that the government "does a lot." However, one of the governmental institutions we contacted said that, despite their achievements thus far, they should still make greater efforts in public sectors to increase awareness about immigrants' rights.

Regarding the type of support that the Brazilian government may provide migrants, the answers we obtained were very varied. A large group of respondents said the government should give more support and information to migrants and improve the service provided by the Consulate:

"The Brazilian government should invest more on public policies related to us; care more for us who are living abroad. We have many rights that we don't even know exist." [Adriana, receptionist]

"To give more support, because I think there is a lot people here that want to go back, or want an opportunity here. I don't know what the government can do, maybe inform us, provide information at the Consulate." [Milton, PhD student]

"Maybe give more information and improve the services rendered at the Consulate, that place is like hell." [Chico, owner of a travel agency]

"My biggest problem today is the Brazilian Consulate because that place is like hell on earth." [Nara, university professor]

Other respondents argued that the Brazilian government should fund the education of immigrants who are abroad, facilitate the process of recognition of diplomas, study the characteristics of the diaspora, maintain bilateral agreements with Portugal, prevent the high costs of legalization documents in Portugal, ensure a good image of the country and support the processes for obtaining a visa in Brazil (although this is the responsibility of the Portuguese authorities).

In one case, an interviewee suggested that the Brazilian government should do nothing for the Brazilian immigrants, since this is not its responsibility:

"I don't think so, either, this has nothing to do with them. They are responsible for the people there." [Zé Renato, waiter]

One of the non-governmental institutions we interviewed said that the Brazilian government, including the Consulate, should provide greater support to immigrants, particularly in light of the economic crisis. They added that the Brazilian government should focus on providing support for return and reintegration into Brazilian society.

5.3.13 General assessment of migration

The immigrants were asked about the main difficulties they had faced during their period of residence in Portugal. Most answers referred to problems regarding employment – the most often-cited difficulties were finding work, particularly jobs suitable to their skills, and



obtaining an employment contract in order to become regular. Some respondents said that immigrants know that job insecurity affects not only them, but also other vulnerable groups in society, such as most young people:

"I came here already prepared to work with all kinds of things, but even then you feel it. And this got me upset because it's a national thing, Portuguese girls who have a university degree are doing cleaning services just like me (...) The person studies a lot and when they get here they don't get the opportunity to show what they know (...) It seems that they don't give much credit to Brazilian girls either." [Adriana, receptionist]

Other difficulties were cited, including low purchasing power, difficulties in visa renewal, housing, distance from the family, culture shock, discrimination, misinformation and the cold weather:

"Income. To the point where you get to a commercial centre, look at a storefront, look at a window, and you think, 'Wow, I don't have money to buy that' (...) It's hard, but after a year you see things begin to work out, and then you have it all." [Erasmus, head waiter at a restaurant]

"Now, after four years here I understand them better, I can ignore many things, things that in the beginning were shocking, their coldness, lack of solidarity with strangers, with a timid smile. A lot of things are strange in the beginning, but I think it's just culture shock (...) I think prejudice towards Brazilian women is still brutal. Whether it's silent or not, prejudice still exists, it's very strong." [Dalva, PhD student]

"The cold weather. I'm from São Luís. Especially in Rio de Moura (the climate is cold). I really miss being home." [Rita, hairdresser]

When asked about who had helped them in solving problems, most responded "friends." In some cases, they mentioned employers and family. This fact demonstrates the importance of informal networks in the immigrants' daily lives. These networks are active in the relocation and the integration processes, and they are decisive even in those cases where there is some type of institutional capacity for support.

Finally, we obtained statements about the interviewees' degree of satisfaction with the migration experience. Although self-assessment of migration is complex because it involves reflections and evaluations that are difficult to express, we found that the overall assessment was positive for nearly all the respondents. In many cases they highlighted gaining independence and experience, most often resulting from a change in lifestyle rather than simply a change of country. Others highlighted an economic gain and increased purchasing power:

"It was the best thing I did in my life. I left a small town in São Paulo; I know it's a well-developed city, not isolated from the world. (...) My view of the world grew threefold, it opened up like this, a life experience. For example, I didn't even know how to pay the water bill, look for food. This is a situation in which I fend for myself, I don't have my parents or a cousin. So this is a situation like this, a life experience, I matured mentally." [Edu, waiter]

"It was good; I matured, to get to know things, to have a life experience, to be independent, that's it. It was good." [Zé Renato, waiter]

"Standing on my own feet, the degree to which I matured in these past three years that I've been here, it wouldn't happen in Brazil... I don't regret it at all."



It was one of the best things in my life." [Adriana, receptionist]

"Yes, I like being here. Like I said, here I am able to have a better quality of life than where I used to live." [Bethânia, manicurist and beauty therapist]

"What keeps me here is the quality of life we have. In Brazil I would never be able to rent a house like this and get all the furniture so fast. What really keeps me here is the financial part. The quality of life." [Rita, hairdresser]

5.4 Conclusion and recommendations

Studies on immigration policies and integration processes of immigrants in Portugal reveal a set of practices that may be considered among the most advanced in Europe. Part of the procedures which exist under Portuguese law result from the common European Union standards, but another important part is solely creditable to the national authorities (Acosta Arcarazo: 2012).

Regarding admission policies for immigrants, Portuguese law has not been able, until now, to control the flow of entries, resulting in endemic irregular immigration. This concerns Brazilian immigrants particularly, since they are not required to possess visas to enter Europe. This regulation has been mostly retrospective. In this aspect, we must emphasize the various opportunities for regularization that have existed, which were amended in 2007 into an ordinary mechanism of regularization.

In the case of integration policies, we assert that these are the most advanced ones in Europe – as proven by the MIPEX, a comparative indicator of integration policies in many European and non-European host countries. Analysis of several facets of integration – mobility in the labour market, family regrouping, education, political participation, long duration of residence, access to citizenship and anti-discrimination – shows Portuguese law conforming to very high standards (Niessen et al.: 2007 and <http://www.mipex.eu>).

The focus of this study was not the existence of rights for immigrants in Portugal, which are numerous, but their practical application and the degree to which Brazilians are claiming these rights. Even if law enforcement is well-controlled, given the possibility of court appeals, it is important to examine the role of social media and civil society – as mentioned in one of the institutional interviews – to investigate the extent to which immigrants experience this reality.

The results of this study show that, in most areas we analyzed, the access of Brazilian immigrants to their rights is extensive. Portuguese legislation on foreigners and integration measures have provided an extensive set of rights to both legal and illegal migrants. One of the non-governmental institutions we interviewed stated that, "Portugal is not a very difficult country in terms of immigration. There are many countries in Europe that are much worse. Portugal is moderate for both legal and illegal immigrants."

First of all, the possibilities for regularization are numerous in Portugal. Also, immigrants' access to employment, education, healthcare and social benefits is comparable to that of Portuguese nationals. Regarding employment, irregular immigrants are still being recruited and, regarding education and healthcare, their access is guaranteed, as is their descendants', though some institutions have raised obstacles in this regard.

As for the enjoyment of political rights, this is limited only by immigrants' lack of knowledge about the legislation or lack of interest in political participation. The equality between citizens



of both countries here is either ignored or not appreciated by many immigrants. Access to Portuguese nationality, permitted by the 2006 Act, has however been vast.

What emerges from this study is that, of the guaranteed rights, the right to housing is one of the most problematic, due to frequent instances of discrimination. Also, anti-discrimination laws are not applied to other areas of everyday life, leading to frequent discrimination against Brazilians, particularly Brazilian women. Immigrants' access to healthcare can also be improved: the treatment of illegal immigrants is sometimes inadequate and there is a common lack of knowledge regarding the PB-4 agreement, mainly used by students.

Problems faced by immigrants are numerous, though they do not relate to an absence of rights, but rather to restricted entry into the labour market. Job insecurity and insufficient incomes affect many immigrants as a result of the mechanisms of structural segmentation, which often puts them alongside other vulnerable social groups, such as young people, women and ethnic minorities.

Some recommendations for action by the Portuguese and Brazilian authorities to address these issues are outlined below.

Firstly, procedures for legal migration should be improved and expedited, in order to dissuade the practice of entry as "tourists" and subsequent irregular residency in the country. A good example was identified in this study: Brazilian students who decide to come to Portugal almost always seek legal migratory status and adequate information before departure. However, even in these cases we identified bureaucratic mechanisms that should be improved, since the delay in the issuance of visas (by the Portuguese Consulates in Brazil) sometimes leads to insecurity. These obstacles should be removed, especially at a time when student migration has increased rapidly as a result of programmes like Science without Borders. In summary, legal migration procedures should be generalized to all migrants, students and workers, and accelerated.

More generally, potential migrants should be informed about their various rights by the Brazilian authorities, by the Portuguese Consulates in Brazil and by the authorities in Portugal. As highlighted in one of the institutional interviews, "There must be proper disclosure of this information." The conditions for legal residence, the transferability of contributions to social security, the status of equality between citizens of Brazil and Portugal, anti-discrimination laws, labour rights, the right to healthcare, and others should be better disclosed. Awareness of rights can be crucial to improve access to these rights and to prevent abuses.

Anti-discrimination laws should be better enforced in practice, particularly for access to housing, but also in other aspects of life. In this respect, what seems most important is to advise immigrants about how to provide evidence that can support complaints of discriminatory behaviour. Some of the institutions we contacted confirmed that they have made numerous complaints, particularly in relation to housing, but that most of these had had no consequences. It was suggested that there should be more information on how to report abusive behaviour. One interviewee stated, "Immigrants have to know what they can do when their rights are denied," that is, how to argue or gather evidence that supports a complaint.

The institutions of the host country should also be better informed about the rights of immigrants, particularly irregular ones. This is especially true for the public health system. Some access barriers can result from poor information, a situation that can be easily resolved. In general, and despite important steps already taken in this direction, more training should be given to public services about the rights of immigrants.



Specific areas should be subject to better joint regulation between the two countries, such as the recognition of diplomas. Whether in the case of Brazilian diplomas in Portugal or in the case of Portuguese diplomas in Brazil (earned by Brazilian or Portuguese nationals), there should be more responsive recognition mechanisms.

The migratory history between Portugal and Brazil is long and defined to some extent by good practices. In addition to the numerous currents and counter-currents of migration between the two countries, which make the two peoples very close, the Portuguese and Brazilian governments have also undertaken numerous initiatives to improve circulation and to ensure the integration of migrants. The Treaty of Friendship, Cooperation and Consultation between Brazil and Portugal, signed in Porto Seguro in 2000, is the latest such initiative. It can be expected that cooperation between the two countries will continue, making it easier to connect their common areas of interest and to ensure quality of life to migrants from both countries.



REFERENCES

Acosta Arcarazo, Diego (2012), "Estudo comparativo das legislações sobre a imigração de Portugal, Espanha e Brasil," **Projeto Itineris**, International Centre for Migration Policy Development (ICMPD), mimeo.

Bäckström, Bárbara *et al.* (2009), "Imigração e saúde - O Gabinete de Saúde do CNAI enquanto observatório para o estudo das condições de acesso dos imigrantes aos serviços de saúde," **Migrações**, 4, pp. 161-189.

Baganha, Maria Ioannis (2005), "Política de imigração: a regulação dos fluxos," **Revista Crítica de Ciências Sociais**, 73, pp. 29-44.

Carneiro, Roberto (coord.) (2006), **A Mobilidade Ocupacional do Trabalhador Imigrante em Portugal**, Lisbon, DGEEP, Ministry of Labour and Social Solidarity.

Casa do Brasil de Lisboa (2004), **A "Segunda Vaga" de Imigração Brasileira para Portugal (1998-2003)**, Lisbon, Casa do Brasil de Lisboa, mimeo.

Chiswick, Barry R. (1978), The effects of Americanization on the earnings of foreign-born men, **Journal of Political Economy**, vol. 86, n. 5, pp. 897-921.

Egreja, Catarina and João Peixoto (2011), "Caminhos limitados ou mobilidade bloqueada? A mobilidade socioprofissional dos imigrantes brasileiros em Portugal," **Sociologia, Problemas e Práticas**, n. 67, pp. 43-64.

Góis, Pedro, José C. Marques, Beatriz Padilla and João Peixoto (2009) "Segunda ou terceira vaga? As características da imigração brasileira recente em Portugal," **Migrações**, OI/ACIDI, n. 5, pp. 111-133.

Kovács, Ilona (org.) (2005), **Flexibilidade de Emprego: Riscos e Oportunidades**. Oeiras: Celta.

Machado, Igor (2003), **Cárcere Público: Processos de Exotização entre Imigrantes Brasileiros no Porto, Portugal**. Doctoral thesis. UNICAMP: Sao Paulo.

Machado, Igor (org.) (2006), **Um Mar de Identidades. A Imigração Brasileira em Portugal**, São Carlos, Editora da Universidade Federal de São Carlos.

Malheiros, Jorge (org.) (2007), **A Imigração Brasileira em Portugal**. Lisbon, ACIDI.

Malheiros, Jorge and M. Lucinda Fonseca (org.) (2011), **Acesso à Habitação e Problemas Residenciais dos Imigrantes em Portugal**, Lisbon, ACIDI.

Niessen, Jan, T. Huddleston and L. Citron (2007), **Migrant Integration Policy Index**, Brussels, British Council and Migration Policy Group.

Nunan, Carolina and João Peixoto (2012), "Crise econômica e retorno dos imigrantes brasileiros em Portugal," **REMHU - Revista Interdisciplinar da Mobilidade Humana**, Year XX, n. 38, pp. 233-250.

Padilla, Beatriz (2006), "Brazilian migration to Portugal: social networks and ethnic solidarity," **CIES-ISCTE Working Paper**, n. 12.



Padilla, Beatriz (2007), "A imigrante brasileira em Portugal: considerando o género na análise," in Malheiros, J. (org.), **Imigração brasileira em Portugal**. Immigration Observatory: Lisbon.

Peixoto, João (2008) "Imigração e mercado de trabalho em Portugal: investigação e tendências recentes," **Migrações**, OI/ACIDI, Nº 2, pp. 19-46.

Peixoto, João e António V. Marques (2006), **Análise do Mercado de Remessas Portugal/Brasil**, Lisboa, Banco Interamericano de Desenvolvimento e CESO-CI.

Peixoto, João e Catarina Egreja (2012a), "A força dos laços fracos: estratégias de emprego entre os imigrantes brasileiros em Portugal," **Tempo Social**, Vol. 24, Nº 1, pp. 263-281.

Peixoto, João e Catarina Egreja (2012b), "Migrações e segmentação do mercado de trabalho: o caso da migração brasileira para Portugal," **Travessia – Revista do Migrante**, Ano XXV, Nº 70, Janeiro-Junho 2012, pp. 7-25.

Peixoto, João e Juliana Iorio (2011), **Crise, Imigração e Mercado de Trabalho em Portugal: retorno, regulação ou resistência?**, Cascais, Principia / Fundação Calouste Gulbenkian.

Pinho, Ana Filipa (2012), **Transformações na Emigração Brasileira para Portugal – De Profissionais a Trabalhadores**, Dissertação de Doutoramento em Sociologia, Lisboa, ISCTE-IUL.

Pires, Rui Pena (coord.) *et al.* (2010), **Portugal: Atlas das Migrações Internacionais**, Lisboa, Tinta da China / Fundação Calouste Gulbenkian.

Rossi, P. L. (2004), "Remessas de Imigrantes Brasileiros em Portugal - Inquérito por Amostragem a Imigrantes Brasileiros em Lisboa, Porto e Setúbal," **SOCIUS Working Papers**, ISEG/UTL, Nº 10/2004.

Serviço de Estrangeiros e Fronteiras (SEF) (2012), **Relatório de Imigração, Fronteiras e Asilo – 2011**, Lisboa, SEF.

Silva, Thais França da (2012), **Lindas Mulatas com Rendas de Portugal**, Dissertação de Doutoramento em Sociologia, Coimbra, Faculdade de Economia da Universidade de Coimbra.





6. ACCESS OF BRAZILIAN IMMIGRANTS TO SOCIAL AND POLITICAL RIGHTS IN SPAIN

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Luisa Belchior⁸¹

6.1 Introduction

The objective of this study is to analyze the degree to which Brazilian migrants have access to the main social and political rights in Spain, highlighting both the difficulties as well as the good practices that characterize the process of integration.

This analysis is based on 20 interviews conducted with Brazilian immigrants, as well as four interviews conducted with institutional representatives having a direct relationship to Brazilian immigration.

Additionally, the interviews with institutional representatives were complemented by an interview with the director of Human Resources of an important Spanish telecommunications company that employs a significant number of Brazilian nationals.

The first part of the study presents an overview of the main socio-demographic and economic characteristics of Brazilian migration in the Spanish migratory context. Then, the middle section analyzes the results of interviews with Brazilian migrants, dealing with key aspects of their integration, such as their entry into the labour market, access to i) the healthcare system, ii) education, iii) housing and iv) the major social services, as well as their access to modes of stabilization such as v) forms of regularization and vi) the acquisition of Spanish citizenship. It also analyzes the organization of everyday life and the importance of family and friendship networks in obtaining employment or housing. Finally, this report presents an analysis on the role of both Spanish and Brazilian institutions in the integration processes using the results of the interviews with immigrants, as well as the results of interviews with institutional and corporate representatives.

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6.2 The scope of the study

6.2.1 Immigration in Spain

Spain, like many other countries in southern Europe, has a long tradition of emigration. Nearly five million Spanish people left the country between 1860 and 1969 in search of work, and half a million refugees fled during the Civil War between 1936 and 1939. However, in the last quarter of the 20th century, the process of democratization, European Union membership and a marked improvement of living conditions favoured the gradual transformation of Spain into a country of immigration. Foreign workers began responding to a structural demand for low-skilled jobs that were becoming increasingly unattractive to native workers. As a result, the foreign population began to grow considerably during the 1980s, although its numbers remained modest until at least the late 1990s (Arango: 2000).

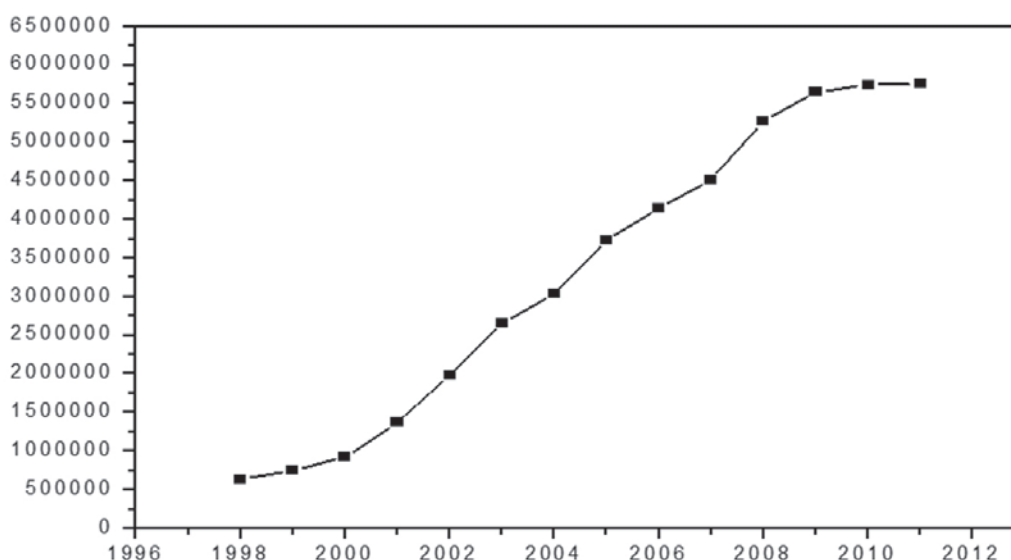
During this period, inadequate migration policies and an extensive informal economy transformed irregular immigration into a structural feature of the Spanish migration regime. In order to address this phenomenon, six migration regularization programmes were carried out in a period of 20 years, each of which was presented as an exceptional measure. In all, around 1.2 million foreigners have been regularized in Spain since 1985, half of these in 2005. While the regularizations have allowed the residence stabilization of many migrants (Finotelli, Arango: 2011), thus far they have not been enough to address the structural causes of irregular immigration.

Only very recently did the Spanish government acknowledge that it is impossible to fight against irregular immigration without improving the efficiency of control policies and tools for recruiting foreign workers. In 2004, the newly elected socialist government decided to strengthen border controls through bilateral cooperation and introduced tools to improve the individual hiring (General Regime) and collective hiring (contingent) of foreign workers. The reforms intended to respond more effectively to the growing demands of the labour market. Still, the new immigration regulation no. 2393/2004 introduced a type of individual regularization (through social and economic ties, *arraigo*) based on the pre-existence of an employment relationship or the social integration of irregular migrants. The regulation aimed to establish a system of continuous regularization, in order to avoid the use of massive regularization programmes. With regard to integration policies, the government created the Strategic Plan for Citizenship and Integration (*Plan Estratégico de Ciudadanía e Integración*, PEI), which for the first time provided a common framework for the management of integration policies and the background of which was mainly focused on education policies and the development of local integration policies.

The attempts to improve migration policies coincided with a significant increase in immigration to Spain. Between 1998 and 2008, a relatively short period of time, Spain reached one of the highest rates of net immigration in Europe, receiving almost 50% of the net immigration in the European Union. In a short while, the foreign population began to represent more than 10% of the total population. This increase in foreign population occurred in a period of economic prosperity, during which immigration contributed to the steady growth of the Spanish GDP; 50% of the new jobs created between 2001 and 2006 were occupied by immigrants (Sebastian: 2006). The speed of economic and demographic growth has transformed Spain into an exceptional case in Europe. In a few years, the country has ceased to be a model of “low intensity” immigration (Arango: 2000) to become a model of “high intensity” immigration (see Graph 6).



Graph 6 – Evolution of the foreign population in Spain (stocks) 2000-2011



Source: National Institute of Statistics (INE)

The so-called “prodigious decade of immigration” (Oliver: 2008) was interrupted in 2008 by the outbreak of a deep economic crisis. In just two years, Spain has gone from one of the largest importers of labour in the European Union into a country with the highest unemployment rates in Europe. This crisis led to an important series of cuts in social policies, including the cancellation of the PECL. Moreover, in 2012, the new government of the Popular Party approved a legislative reform preventing registered irregular foreigners from receiving free medical care under the national health system. These changes indicate the beginning of a new phase in which it is believed by many that the migrants’ access to certain social rights will be affected by the crisis. In particular, experts fear important drawbacks in the immigration process that, in spite of its gaps, allowed for the inclusion (and, in many cases, the stabilization) of a great number of migrants in an extremely short period. In the next part of this report, we analyzed the effects of this exceptional period in relation to the Brazilian population in Spain and its integration process.

6.2.2 Demographic and socioeconomic characteristics of the Brazilian immigration in Spain

Latin Americans represent one of the largest foreign communities in Spain. According to the Municipal Register of Inhabitants (*Registro Municipal de Habitantes*) for 2011, the most numerous national groups are the Ecuadorians (403,864) and Colombians (273,176), while Brazilians represent one of the smallest groups with 107,596 registrants (see Table 8).

However, there is a difference between the number of Brazilians enrolled in the register and Brazilians possessing a residence permit, which in that same year numbered just 63,689. This disparity means that many Brazilians are enrolled in the Municipal Register but do not have a residence permit. These are, doubtlessly, Brazilians on student visas⁸² as well as aliens whose renewal of the residence permit is in process. There are also a number of Brazilians who have returned to Brazil permanently or moved to other European countries without annulling their registration in the Municipal Register. However, given that both regular and

⁸² Aliens with a student visa are accounted for separately in Spanish statistics on the presence of foreigners.



irregular foreigners can register, this difference also suggests that most Brazilians who are registered in Spain have an irregular status.

In fact, recently published research confirmed the prevalence of irregularity within the Brazilian group. According to Solé et al. (2009), for example, the rate of irregularity among Brazilian immigrants was one of the highest, just under that of Bolivian immigrants. Yet, data from the Bureau of Immigration indicate that between late 2009 and June 2012, 13,979 Brazilians have been authorized through *arraigo* in Spain, which represents 4.8% of all permits granted for this reason in the period considered.

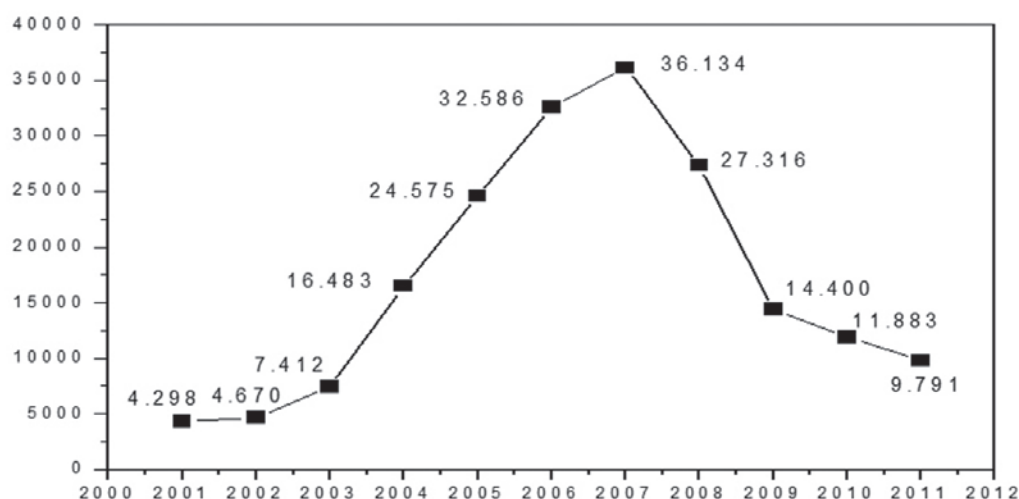
Table 8 – The Brazilian population in comparison with other Latin-American nationalities⁸³

Countries	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Argentina	37,625	66,296	127,757	157,323	152,975	150,252	141,159	147,382	140,443	132,249	120,738
Bolivia	6,594	13,427	28,128	51,673	97,947	139,802	200,496	242,296	227,145	213,169	199,080
Brazil	17,302	24,036	31,751	37,995	54,115	72,441	90,161	116,548	124,737	117,808	107,596
Ecuador	86,927	190,226	242,540	246,243	271,239	265,141	261,542	284,581	292,971	399,586	360,710
Colombia	137,185	255,360	382,169	463,737	497,799	461,310	427,099	427,718	413,715	292,641	273,176

Source: National Institute of Statistics – Municipal Register of Inhabitants

Despite the reduced dimensions of the Brazilian community in Spain, its presence in the country has undoubtedly increased over the last 10 years. This evolution is particularly evident if we consider the evolution of new residential registrations of Brazilians between 2001 and 2011⁸⁴. As seen in Graph 7, the number of enrolments increased exponentially until 2007 and experienced a sharp drop starting in 2008:⁸⁵

Graph 7 – New residential registrations of Brazilians (2001-2011)



Source: National Institute of Statistics (INE)

⁸³ Data from the Municipal Register on Inhabitants refer to aliens who registered in the Municipal Electoral Roll of Inhabitants. Registration in the Municipal Register is made possible by simply showing an ID without the need to prove legal residence. Until August 31, 2012, registration in the Municipal Register of Inhabitants allowed for free schooling and public healthcare.

⁸⁴ Residential variations refer to immigrants who registered *ex novo* in the census of a given municipality.

⁸⁵ This drop is both due to the effects of the crisis and to the deterrent effects resulting from the operations conducted by the Spanish authorities at airports in Spain (see 3.2.1.).



Most Brazilians are located in the communities of Catalonia, Madrid and Galicia.⁸⁶ The data available also indicate a high proportion of women in the Brazilian population when compared to other Latin American nationalities, although this proportion has declined over the past few years:

Table 9 – Proportion of women in the Brazilian immigrant population

Countries	2001		2003		2005		2007		2009		2011	
	Total	% F	Total	% F	Total	% F	Total	% F	Total	% F	Total	% F
Argentina	37,625	50.7	109,445	49.0	152,975	49.2	141,159	49.8	140,443	50.0	120,738	50.9
Bolivia	6,594	55.9	28,432	54.4	97,947	55.5	200,496	56.3	227,145	56.4	199,080	58.1
Brazil	17,302	68.3	31,270	67.2	54,115	64.0	90,161	60.5	124,737	60.3	107,596	64.3
Ecuador	86,927	60.2	214,684	57.0	271,239	56.5	261,542	44.0	292,971	50.6	360,710	50.3
Colombia	137,185	38.1	390,297	51.2	497,799	51.3	427,099	56.4	413,715	55.2	273,176	55.4

Source: National Institute of Statistics – Municipal Register on Inhabitants

According to the latest data of the Municipal Register, 61.5% of Brazilians living in Spain are between the ages of 20 and 39 and are therefore of working age. Indeed, when we highlight the purposes for the issuance of residence permits, we see that in 2011, 87% of the Brazilian immigrants registered in the General Regime, living in Spain for work purposes.⁸⁷

But what kind of work do Brazilians do in Spain? According to the Ministry of Labour and Social Welfare, the number of Brazilians registered for Social Welfare increased considerably, going from 3,406 in 2002 to 23,678 in 2009, with a particular rise after the regularization “boom” of 2005. The majority of Brazilian workers are affiliated to the General Social Security System (*Régimen General de la Seguridad Social*), which includes all paid employees. With regard to other systems, the Brazilian community also has a fairly high number of self-employed workers when compared to other Latin American communities, only falling behind the Argentine community, and the presence of Brazilians in the domestic service sector is very similar to other Latin American nationalities (Solé et al.: 2009). According to the data presented in Table 10, Brazilian workers mostly have jobs of average classification (mainly as administrative assistants), while the percentage of low-skilled jobs among Brazilian workers is lower than in other Latin American communities (General Secretariat for Emigration and Immigration 2003-2009).

⁸⁶ The presence of Brazilians in Galicia, one of the CCAAs with less immigration, is influenced by its geographical proximity to Portugal (Solé et al.: 2009).

⁸⁷ We would like to reiterate that in Spain, the General Regime of Foreigners includes all foreigners that 1) are not nationals of a member state of the European Union; and 2) are not married to a national of a member state of the European Union.



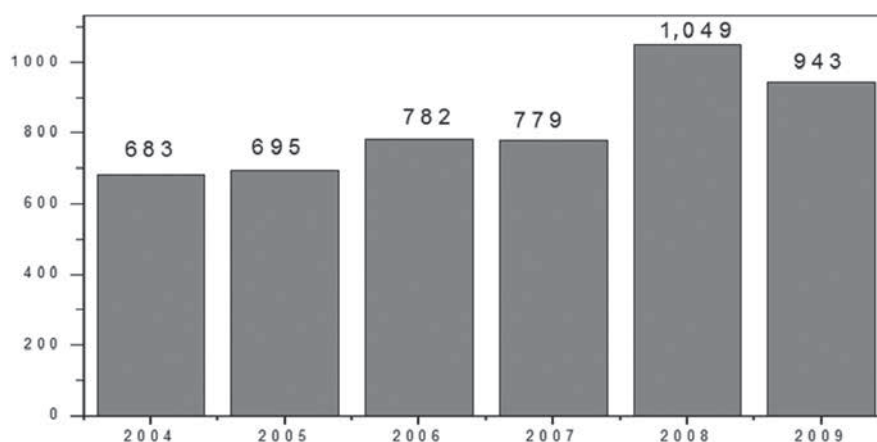
Table 10 – Jobs performed by Brazilian immigrants

Occupations	2003	2004	2005	2006	2007	2008	2009
Licensed Engineer	232	250	334	427	596	693	740
Technical Engineer	73	85	131	145	192	211	222
Business Manager	158	189	283	352	408	449	421
Helper without a title	127	147	275	316	409	503	465
Administrative officer	425	518	772	990	1,208	1,365	1,319
Subordinates	129	158	312	402	509	662	664
Administrative clerk	732	880	1,492	1,793	2,208	2,283	2,107
1st and 2nd officer	900	1,187	2,242	3,057	3,546	3,528	3,346
3rd officer	939	1,230	2,373	2,889	3,276	3,582	3,644
Peons	1,389	1,759	3,628	4,053	4,133	4,324	4,148
Not available	5	-	1	2	0	-	-
Minors	1	8	10	13	15	19	9
Total	5,110	6,411	11,853	14,439	16,500	17,619	17,085

Source: General Secretariat for Emigration and Immigration

It is also worth noting that Brazilians represent one of the Latin American groups of migrants with the highest level of education. According to the Population Census of 2001, more than half of the Brazilian population had a high school diploma and, to a lesser extent, a higher education degree. These percentages are similar to those of other Latin American countries. However, it seems that Brazilians living in Spain, along with the Argentines, have the lowest rates of illiteracy among Latin Americans (Solé et al.: 2009)⁸⁸. It should also be noted that Brazilian students in Spain are still a small group when compared to migrants in the labour market. However, their number has increased in recent years from 1,599 in 2001 to 2,348 in 2010, representing the second largest group of Latin American students after the Colombians (Yearbook of Immigration Statistics, 2001-2010). Finally, one should remember the importance of naturalization as the most important tool for stabilization. In Graph 8, we can see that the naturalization of Brazilian migrants remains largely stable over the years although there has been a slight increase in 2008.

Graph 8 – Naturalizations of Brazilians (2004-2009)



Source: Finotelli, La Barbera (2012). Based on data from the Spanish Ministry of Justice

⁸⁸ However, it is also important to remember that these affirmations are based on data from the 2011 Census, a year in which the legally resident Brazilian population was very small. An analysis of the new population census could therefore provide a different view on the level of education of this group.

However, the naturalizations of Brazilians represent only 1.4% of all naturalizations granted in Spain and 1.9% of all naturalizations of Latin Americans between 2001 and 2009 (Finotelli, La Barbera: 2012). Of these, 62.2% are naturalizations by residency and 35.2% are naturalizations by marriage.

To summarize, according to the current data available, the Brazilian community in Spain consists of a predominantly young female population, which is in Spain for work reasons, although the presence of those who came to study has increased. Most Brazilians are employed in occupations requiring medium and low qualifications and have at least secondary education.⁸⁹ It is also a group with a significantly low rate of irregularity, which could also explain the low percentage of those who applied for a Spanish citizenship until 2009. Due to the relevance of those who are irregular within the group of Brazilians in Spain, the next section of this study will give particular emphasis to the distinction between regular and irregular migrants, to assess the access of Brazilian migrants to their main social and political rights in Spain.

6.3 Research results

6.3.1 Interview methodology

The research is based on 20 structured interviews with Brazilian immigrants living in Spain. The sample includes both legal and illegal migrants, as well as students and workers with varying levels of skill. We also selected an equal number of men and women of different ages and times of arrival in Spain.

The respondents were contacted by the “snowball” method.⁹⁰ Some were contacted directly while waiting at the Consulate of Brazil in Madrid. All interviews were recorded and the names of interviewees were changed in order to protect their privacy.

As for institutional representatives, most interviews were conducted with representatives from Brazilian institutions (Casa do Brasil, the Hispanic-Brazilian Foundation, the Hispanic-Brazilian Chamber of Commerce, and the Consulate General of Brazil). We also interviewed the director of Human Resources for a major Spanish telecommunications company which employs Brazilian workers. Although it was impossible to set up interviews with representatives from the Spanish Ministry of Foreign Affairs and the Secretary of State for Immigration and Emigration, this study refers to the statements of senior institutional representatives during the official visit by the President of Brazil, Dilma Rousseff, to Spain in November 2012.

⁸⁹ Secondary education is required in Spain from children ages 12 to 16 (RSE), followed by a “bachelor’s” from ages 16 to 18.

⁹⁰ The “snowball” method consists of identifying individuals from a sample of a small group of interviewees that meet the pre-requirements and that indicate other individuals with analogous characteristics.



6.3.2 The trajectories of Brazilian migrants

6.3.2.1 Arrival in Spain

Brazil, along with Uruguay, Paraguay, Chile and Argentina, is one of the Latin American countries whose citizens are not yet required to possess a visa⁹¹ to enter Spain. There is no evidence to indicate that the European Union plans to include Brazil in the list of countries whose citizens are required to apply for a visa to visit countries in the Schengen area. Nevertheless, the relationship between Spain and Brazil has been recently strained by disputes over the conditions imposed by Spanish authorities on Brazilians visiting Spain. Since 2008, the Brazilian government has asked the Spanish government on several occasions to soften its control over Brazilians coming to Spain for tourism.⁹² The requests were based on a significant increase of Brazilians deported by Spanish authorities for lacking the necessary documentation to travel to Spain. Several Brazilians also complained of discriminatory and often impolite treatment received at the hands of the Spanish border police.⁹³

According to information provided by the Consulate of Brazil, in 2011 alone the Spanish authorities denied entry to 1,402 Brazilian citizens, which has generated unease among Brazilian institutions. However, the Spanish government remained impervious to complaints made by the Brazilian government regarding these practices. According to information given by an institutional representative interviewed for this study, the difficulties in reaching an agreement between the Spanish and Brazilian governments in this respect were partly due to a certain divergence between the priorities of the Spanish Ministry of Foreign Affairs and those of the Interior Ministry.⁹⁴ Consequently, the Brazilian government decided to impose upon Spanish citizens visiting Brazil the same conditions as required of Brazilian citizens visiting Spain. The regulation came into force in April 2012, and only after a series of conversations and an official visit to Brazil by the King of Spain Juan Carlos I, Spain alleviated the entry requirements for Brazilian tourists. Since then, according to the statements of all institutional representatives we interviewed, no major incidents have been recorded.

The Spanish government's attitude towards Brazilian immigration was influenced by the perception of a certain correlation between Brazilian immigration and the phenomenon of human trafficking. However, there is no empirical evidence to support this attitude, since the occurrence of human trafficking and prostitution is minor within the collective of Brazilian immigrants, according to the Consulate of Brazil.⁹⁵ Nonetheless, this does not mean that the possibility to enter Spain without an entry visa has not played a major role in the migratory path of Brazilian immigrants.

⁹¹ The permanence visa (which corresponds to the Schengen type C visa) is given for touristic, business or visiting purposes, and is valid for a maximum of three months.

⁹² The tension began when a Brazilian researcher on her way to participate in a meeting in Portugal, arriving by flight to Madrid, was barred from continuing her trip at Barajas Airport. She was to stay at a friend's house and did not have an invitation letter, a formal document required for visiting friends or family in Spain.

⁹³ The most significant case is that of a 77 year old woman who, in 2012, after being barred from entering Spain (where her daughter lived illegally) for having no invitation letter or proof of income, was kept at Barajas Airport for three days without a change of clothes or access to the medication that was in her luggage.

⁹⁴ This should not be surprising, since the implementation of the visa policies normally reflects and is compromised by the contradiction between control requirements and foreign policy (Finotelli; Sciortino, 2012).

⁹⁵ This does not mean, however, that these phenomena do not require special attention, as indicated in the latest report by the Commissioner for Human Rights of the Council of Europe (2012).

In fact, several studies have shown that irregular migration systems are composed mainly of overstayers, or people who stay in the host country after the period of legal stay for tourism has expired (Finotelli, Sciortino: 2012). This was also demonstrated in the case of the Brazilians we interviewed for this study. Of the migrants we interviewed, five entered Spain with a student visa, two had European passports (Italian), one requested a transfer to Spain through her company and one arrived accompanied by her Spanish father. The remaining declared having entered without a visa and overstayed after the three months allowed under this provision. Most came directly to Spain from Brazil without going through other countries. Only in three cases, the interviewees passed through other countries before arriving in Spain. Maria, for example, entered Spain via Portugal, where she had travelled to accompany her husband, who was going to work there, and where one of her sisters lived. Álvaro, in turn, decided to pass through France before he arrived in Spain, in order to avoid the police inspection at the Madrid airport:

"(The entry) was normal; I just came here with a ticket and got in through Paris. That way it would be easier to get in and there were no problems." [Álvaro, September 17, 2012]

Another similar case is that of Julimar, who decided to stay in Spain for security reasons:

"At first I didn't choose Spain. Spain was a consequence of what happened along the way. I toured Europe, I was going to England and then I changed my mind. I preferred Spain because of documentation, I had the possibility to be legalized (regularization of illegal immigrants), and in England one didn't see this kind of thing, immigrants had to work in secret, risking being deported. It seemed safer here (for immigrants)." [Julimar, September 12, 2012]

Few of the immigrants we interviewed had looked for information about Spain before leaving Brazil. Most depended on help from family and friends to look for housing and work and to obtain the necessary information to establish themselves in the country:

"I already had a place to live, so I didn't worry, because I had my friends who were here and I was going to live with them. Do you want to know if I obtained information about whether I needed citizenship or any kind of document? No, I didn't. The only thing I worried about was to do a crash course on the most important words so I wouldn't have a lot of problems, find out how to get in, whether I had to bring a lot of clothes, nothing else." [Adriano, September 18, 2012]

The influence of family and friends was also a determining factor on the migratory routes of regular migrants like Gilson:

"I did not intend to come to Spain. I wanted to go to the United States or Australia because of the English course. But since I had a friend who lived here, I thought it would be easier, so I decided to come to Spain (...) and I ended up staying, because of the "permiso de residência" (residence permit) for Italy (...) I have to stay in Europe for at least one year in order to get it (the Italian citizenship, because his grandfather was Italian)." [Gilson, September 18, 2012]

However, most regular Brazilian immigrants can count on support from other channels in the early stages. In some cases these may be their Spanish partners, or companies, university administration, etc.



6.3.2.2 Establishment of residency

The majority of the irregular Brazilian immigrants we interviewed for this study came to Spain post-2005, after the “great Spanish regularization” in which 578,375 illegal foreigners, including 8,069 Brazilians (Finotelli: 2011), were granted legal status. Only one of the Brazilian respondents came in 2003, before the “great regularization.” However, some of them were legalized either by marrying a Spanish citizen, as in the case of Sílvia, or by *arraigo*. Out of those who are still irregular, two are undergoing the process of regularization. One, Álvaro, is working for a documentation agency where he hopes to get a contract in order to become regular:

“I publicize the agency and I am responsible for the branch office here (in Madrid). I do everything, I stay by myself there. I still don’t have a contract, but I’m fighting for it. (...) I work part-time for the company and in the afternoons I am responsible for publicizing in the neighbourhoods.” [Álvaro, September 17, 2012]⁹⁶

The second interviewee, Juliana, is trying to be regularized for the second time. The first time, her employer did not register her with the social security system, which caused her residence permit to be revoked and made her status irregular. However, after she was apprehended by the police and charged a €500 fine, she decided to try again:

“I have already had a contract, I got my ‘tarjeta’ but I lost it, because my ex-boss didn’t register me. But now I have a new contract that is being processed by my new boss.” [Juliana, September 16, 2012]

There are also cases of those who tried to become regular but did not succeed, like Elaine. In her first attempt to obtain a residence permit through her employer, she had to send her passport to Brazil to be stamped and the document was lost on the way. Her subsequent attempts failed because of the excessive documentation required from her employers. Eventually she lost her resolve:⁹⁷

“I would like (to become legal), but since there are all of these barriers (...) I want to get my documents, but I don’t have access to them because no one is going to help me. What are they (government) going to say? That my boss has to go there, and my boss refuses to do that, because he knows there is a lot of bureaucracy, they’ll investigate his whole life, so he doesn’t go. I know of a lot of Brazilians who did not get a contract because their bosses had problems.” [Elaine, August 12, 2012]

In general, the importance of completing the documentation sooner or later through regularization is a recurring theme throughout the interviews with undocumented migrants. In fact, there is only one discrepant opinion in this regard:

“I don’t think it’s the Spanish government’s job to do anything to help those who are illegal. I don’t think it would be fair. Since I came here, I have to get by with my own resources.” [Maria, September 12, 2012]

⁹⁶ Paradoxically, we observed that the agency for which Álvaro works offers consultancy and management services for illegal immigrants who want to regularize their administrative situation.

⁹⁷ It is worth mentioning that Elaine’s irregular status apparently did not prevent her from leaving and re-entering Spain, as she explained to us during the interview. In two instances, she entered through Portugal where they did not ask for her documentation. The third time she went to Brazil, however, she decided to enter through the Madrid airport and she was approached by the police. “He saw my passport and asked if I was living here illegally and I said no. Then he asked what I had been doing here for such a long time, and I said: ‘flirting with policemen.’ So he laughed and let me go.”

6.3.3 Housing

All respondents, regular and irregular, had access to housing. In fact, none of the irregular Brazilians lived on the streets or in precarious conditions. Most of them sublet a room in an apartment rented out by friends or family members who have a residence permit. All of them, without exception, received help from friends and family to find a room, which once again reaffirms the relevance of social networks for the daily survival strategies of undocumented migrants.

Renting is also the most common choice among regular migrants. The responding students rented apartments or rooms found through agencies or the internet. One student lives at Casa do Brasil:⁹⁸

“Even though I pay somewhat more, I believe it is more advantageous to live here. I have greater comfort than what I would have if I shared an apartment, and I am not so young anymore. I live very well here ever since I arrived in Spain and I don’t ever think about moving.” [Jose, July 29, 2012]

Renting (on a solitary basis) is also the preferred option for migrants with high incomes but somewhat unstable work trajectories, as is the case of Fernando, who had plans to return to Brazil in January 2013. A few migrants were able to buy an apartment in Madrid. This is mainly true of women who have lived in Spain for many years and eventually bought an apartment with their husbands:

“My husband bought (the house) with a mortgage, like everybody else. He is Norwegian and at the time there wasn’t a lot of bureaucracy, but they did ask for a lot of documents: bank statements, proof of entry/departure (into/from the country), salary slips. Since he has his own truck, he is his own appraiser.” [Fernanda, September 18, 2012]

It is also worth highlighting the case of Sara, who was able to buy an apartment with the support of a government programme by the Community of Madrid that facilitates home ownership for victims of gender violence. In this programme, the victim stays under the custody of the Community, following the complaint and proof of the aggression, and can enroll in cooperative housing. The mortgage is paid directly to a Madrid-based government agency. According to the interviewee, the only documentation required by the Community was proof of legal and continuous residence in Spain for more than five years, as well as proof of children and dependents if applicable:

“It’s a consortium through the government, not a bank. It’s a lot better, I don’t even want to think how it would be (through a bank), because there are a lot of Brazilians who used to have houses with pools and they had to go back empty-handed. It’s very unfortunate. Ever since I left my house due to the aggression, I was under the care of the Community of Madrid until the day they put me in my own place and said: ‘This is yours and no one will ever take it from you.’” [Sara, September 12, 2012]

⁹⁸ Living at Casa do Brasil costs €1,276 per month for foreigners, while Brazilians get a 20% discount. This information was provided by Cassio de Almeida, director of Casa do Brasil.



6.3.4 Employment

6.3.4.1 Methods of integration into the workforce

Most of the Brazilians we interviewed live in Spain for work reasons. Only four of the respondents have student visas and only one of the students we interviewed works and studies simultaneously. This is the case of José, a PhD student at the Complutense University of Madrid who is also employed to provide legal advice to companies in Brazil and other countries:

"I have a stable monthly income from performing these functions that allow me to live here without major financial problems. I should say that, within this Spanish collective, I am fortunate. I could earn more if I was in Brazil, but the money I get here allows me to live peacefully." [José, July 29, 2012]

Very few respondents already had a job before arriving in Spain. Sara, who asked her employer to transfer her to Spain in 1989 after getting divorced in Brazil, is one example. More recently, this is true in the case of Fernando, a financial analyst from the Santander Bank, who was transferred to Spain by his employer in 2006. Among the unskilled and undocumented migrants we interviewed, only one had received a job offer before his arrival in Spain:

"I was in Brazil and a friend of mine had moved here. And then there was a job opening at this clinic and the people that were working there were not doing their job well. The owner asked my friend if he knew someone trustworthy. He said he did, but this person was in Brazil, so the owner said: 'Call your friend and tell him to come over.' So I got ready and I was here a month later. Previously, I had received many invitations from friends to come here, but I didn't want to come since I was doing so well back in my town." [Álvaro, September 17, 2012]

The remaining respondents did not have a job in Spain but had a network of friends, family and acquaintances who helped them in obtaining one. However, most had trouble finding a job suited to their qualifications or professional experience. In fact, the immigrants' skills and training are often superior to the level that is required for the type of work performed. This is reflected in the cases of Álvaro and Julimar, who worked in Spain largely in the construction industry after having worked in Brazil as a commercial and travel agent and a van driver respectively. It is true of Baiano, who used to work in Brazil as a sales representative and has worked as a television extra in Spain, but is currently unemployed following the economic crisis. Baiano said that he has had 15 different jobs during his stay in Spain and none of them was related to his professional qualifications:

"I got my first job through pointers from friends. I have had over 15 types of jobs here. None of them were related to my qualifications." [Baiano, September 17, 2012]

There was only one case in which the respondent got a job in Spain consequent to work experience gained in Brazil: Adriano, who came to Spain to work in a dental clinic, but then found a job in an industry closer to his professional experience.

"In Brazil I used to cook snacks (sandwiches), so I created a strategy. I went to a bar where people from my town were working and the owner's wife was



also Brazilian. (...) I used to go there and watch the cooks work. I thought: 'I'm going to call the owner and cook him a snack (a sandwich) and he will like it. And that's what happened. He had a small 'plancha' (grill) and I made 35 sandwiches in a matter of minutes. He tried one and liked it (...) so he invited me himself (to work).' [Adriano, September 18, 2012]

In spite of these difficulties, a change in legal status sometimes facilitates improvements in working conditions. Julimar, for example, was able to return to his old job as a van driver after his regularization since having a residence permit allows him to drive again.

Compared to men, the labour trajectory of women is less varied and presents a lower degree of mobility. All of the irregular women we interviewed are working as maids, despite having had other types of work before arriving in Spain. For instance Elaine, who used to work as a hairdresser in Brazil, now works as a maid:

"I have already tried (to get legal) and it's very hard here, there is a lot of bureaucracy. No one wants to give me a contract. That's why people work here illegally. This is what is bad about Spain and it is very bad for the country. I think they are the ones missing out, because all the money I earn, I send it all to Brazil. If they signed my contract, I would gladly pay for social security, because I would be cooperating with the country that is giving me work, and they need it." [Elaine, August 12, 2012]

The only exception is Maria, who worked initially as a hairdresser in Spain and now cooks specialty Brazilian food (with her husband and her sister), after having served as the regional director of a telephone company in Brazil. Maria's work trajectory is even more interesting considering that she currently employs her entire family in her company. The change in legal status through marriage or regularization does not always lead to a change in one's employment category (or the improvement of working conditions). Sílvia, for example, is married to a Spanish national, and graduated in Brazil as a Spanish teacher, but she continues to work as a care-provider and maid for two elderly people because she cannot find work as a teacher:

"I tried teaching for a while, but there was no demand for it. I had to place an ad at the church offering to work with anything. Now I take care of elderly people. My salary could be better with the number of hours I work and because I work at night, but currently, given the circumstances, I cannot ask for more." [Sílvia, August 14, 2012]

The same applies to Laura, who currently works as a maid despite having been a seamstress in Brazil and having recently received legal status:

"I have always worked here as a maid, I work a lot, more than I should, and for little money (...) I already went to a private and a public agency (to search for a job), but it was futile, they couldn't find anything, so I don't intend to leave my current job." [Laura, September 16, 2012]

Domestic service is therefore presented as one of the "safest" occupations for undocumented women, as well as for those who already have a residence permit. The situation is certainly different for women with a regular migratory path, for those who have been legal for a relatively long period and for those who have had more years of residence in Spain. For instance Fernanda, who came to Spain in 1992 to accompany her Spanish father, has since held various jobs and currently works in a real estate company. We must also note Sara's case, who has been living in Madrid since 1989 and works as a nurse in a hospital, or Lola's,



who is married to a Spanish national and has decided not to work after having searched in vain for a job in the late 1980s:

"I was worried about how I would find work here, but even the people at the embassy would tell me that if I didn't have an 'enchufe', some sort of 'sponsor', it would be complicated. (...) Back then there were two kinds of residence (visas), regular residence and residence for work. To get the work one, you needed to get a work contract or already have one by the time you left Brazil. And if you got a job they would make you go back to Brazil in order to re-enter with the work visa. (...) My husband is Spanish, but his whole family lives in Northern Spain, I was completely lonely here. Between the time when I was organizing our home and got pregnant, there was no one who could help me with my family. And the jobs at that time were precarious, many hours for a small salary. So in order to work I would need to pay someone to take care of my daughter, I don't have family here on either side, and I really didn't desperately need to work... At that time, we could perfectly well live on just one salary. I am not ambitious nor am I demanding, but we lived well and went on vacation every year. Nowadays I regret it a little, because the years go by and you kind of get left behind, and children grow (...). Then it is very hard to take back your professional life. And then at that time when you looked at ads in the newspaper people would write 'no foreigners', so I wouldn't even start." [Lola, September 10, 2012]

6.3.4.2 Work conditions and wages

The contract and salary conditions often depend upon the migrant's status. Most workers in a legal situation are satisfied with their salaries, while the perception of with irregular workers is more negative. In fact, most irregular respondents are working without a contract. Among them, only Álvaro and Juliana are trying to get a contract in order to begin the regularization process. All undocumented respondents realize that the lack of a contract is a clear disadvantage, and acknowledge that having a contract would provide a greater degree of security:

"Even with the reduced pay, I prefer working with a contract. My goal today is to have a contract. Then I will think about the money." [Álvaro, September 17, 2012]

"If they signed a contract with me, I would pay for social security with great pleasure, since I would be cooperating with the country that is giving me work. The problem is that getting this document here involves a lot of bureaucracy, signing a contract for a worker who wants to work legally; that is why people work illegally." [Elaine, August 12, 2012]

However, not all immigrants who have a residence permit prefer to work with a contract (and consequently contribute to social security). Laura, for instance, said:

"I used to prefer (working) with a contract, but (...) of course, I (now) prefer without a contract, because I get paid more." [Laura, September 16, 2012]

Another interviewee affirmed that he would prefer a mixed model, so he would only declare part of his salary and partially avoid the contributions to social security:

"I have always preferred declaring a small portion and leaving the rest." [Julimar, September 12, 2012]



Having a residence permit does not guarantee a contract for workers. Gilson, for example, despite having a European (Italian) passport, is working without a contract since the process of obtaining European citizenship is still in progress. This allows him to reside but not work in Spain. It was also observed that the women we interviewed perceive more forms of labour and wage discrimination than men. Fernanda, for example, said she experienced a different kind of treatment while working at a hotel because she was not Spanish:

"It's as if the other people... We are a lot more open, caring, we have a different way of treating people and everyone gets surprised by it." [Fernanda, September 18, 2012]

Aline also says she suffered discrimination for being a foreigner while working as a salesclerk in occasional fairs:

"Once, when I was working at the fair, we were travelling and we had to stay at a hotel and it was a room with four beds; there was a girl who did not want to share it with me (...). All that (for being Brazilian)." [Aline, September 16, 2012]

Another woman we interviewed observed a certain difference in the treatment of skilled workers as against the less-skilled ones:

"I noticed a difference especially when I was teaching directors at companies or privately at home." [Sílvia, August 14, 2012]

As for wage conditions, not all of the respondents consider their salary as adequate for the work performed. According to Álvaro, wage conditions are bad because he does too much work for the amount of money he gets:

"I perform more than just one function and I have a great responsibility, which is managing the agency. They gave me a lot of trust, but the salary doesn't correspond to it." [Álvaro, September 17, 2012]

Similarly, other interviewees stated that wage conditions do not outweigh the stressful routine of working as maids. However, there is not always an agreement on the causes for wage discrimination. One respondent indicates his irregular status as the main cause for his low salary, while Maria attributes her meagre salary to an "autonomous" effect of the economic crisis:

"My field of work deals mostly with Brazilians, and the people we work with are broke; these clients have got it badly, worse than the Spanish." [Maria, September 12, 2012]

It is interesting to note that not all of the irregular interviewees are unhappy with their salaries. For example, this is the case of Adriano and Aline:

"I think it's good because it's not work... It takes me two hours to do all I have to do. Normally, when you work for two hours as a maid, you make 8 to 10 euros per hour, so I am doing very well. And it's a privileged job because I can wake up at 9, start working at 10; I can do it in four hours, two hours; I can change it around, go eat lunch at home if I want to, stop and chat, I choose my hours. Those who work at a residence, or construction, or a bar cannot do this. I think that, out of all the jobs here in Spain, this is the only one not undergoing a crisis." [Aline, September 16, 2012]



6.3.5 School and education

Very few of the migrants we interviewed have children in Spain. All the children of Brazilians in a regular situation are attending or have attended a private school. According to the majority of the institutional representatives we spoke to, the preference for private school is based primarily on the “bad reputation” of the public sector in Brazil. This is also explained by one of the interviewees:

“I didn’t even think about a public (school) at the time, because I had good references for a private one and it wasn’t too expensive. Then, during the bachelor’s, I looked for public schools because my daughter wanted to study Philology and she needed to know Latin. So I looked for schools that offered it and we even found a spot in one, but in the end she preferred the private school to continue in the same line of education.” [Lola, November 10, 2012]

Preference for a private school is also observed in families with modest incomes, as is the case of Sara:

“Today I know public services better, but at the time I thought it had to be a private education, I wanted the best for them (her daughters).” [Sara, November 10, 2012]

None of the undocumented migrants interviewed for this study have children in Spain, which prevents us from evaluating the access of irregular migrants’ children to the educational system. However, it is worth noting that most undocumented foreigners admit to having received public training such as Spanish courses or professional training to become cooks or food handlers. There are also those, like Álvaro and Juliana, who have taken courses on Spanish legislation in hopes of improving their chances for regularization:

“I studied Spanish for a month as soon as I got here, but then I left the course because I changed jobs and the school was too far away. And then I took four courses to learn about Spanish law. I did it in order to obtain the ‘permiso’, but I found it very interesting and took four.” [Juliana, September 16, 2012]

Among the undocumented interviewees, only Maria was unable to take any courses because, according to her, she was always asked for her NIE (foreigner identification number, *número de identificação de estrangeiro*).⁹⁹ Besides, among the regular immigrants, there are those who took professional training courses, especially public ones:

“I took English, hospitality, public relations, informatics: these courses all belonged to the city hall, I just had to be on a waiting list. But this has nothing to do with (obtaining) residence or citizenship. You do it to ‘enculture’ [sic] yourself more, to just learn,” [Fernanda, September 18, 2012]

There were also people who decided to start a completely new career. For instance Sara began studying nursing as soon as she received permission to live and work in Spain:

“I got in with really good grades. I got in because I enrolled back when I was still in Brazil... Well, it was ... (the company she worked for in Brazil which transferred her to Spain) that did everything, in fact all the documentation was obtained by the company. I didn’t even spend a ‘centime’, I just got here

⁹⁹ However, none of the other respondents mentioned this aspect.



and after two weeks I began studying. I didn't have to take the entrance exam. When you have a sponsor, you can do well anywhere in the world.” [Sara, September 12, 2012]

Finally, it is worth mentioning that those who came on a student visa are particularly pleased with the admission and the attention they received at the institutions where they study (Business Institute, Complutense University):

“I am doing my master's here, which is private, but I also take a free Spanish course at the IE (Instituto de Empresa – Business Institute – where he pursuing his Master's). In fact, I didn't pay (for the Spanish course) because the IE offers it to all students. It's a well-adapted format.” [Guilherme, September 18, 2012]

6.3.6 Healthcare

The Spanish healthcare system provides universal coverage and is financed by payroll taxes.¹⁰⁰ For a long time, one of its peculiarities was to allow access to services for all foreigners registered in the Municipal Register of Inhabitants, regardless of their legal status. However, from August 31, 2012, undocumented foreigners in Spain began to be gradually excluded from the national healthcare system through the non-renewal of their health cards.¹⁰¹ The new rules were severely criticized by all social parties, since they deeply affect the current system of social rights for immigrants.

Most interviews conducted for this study indicated that all respondents, with no bearing on legal status, had used the public healthcare system, not only for occasional incidences of sickness but also for ailments requiring longer treatment:

“I went to the social security office and they treated me wonderfully. I went to a health centre close to home, they sent me to the San Carlos Hospital in Moncloa and I was seen on the same day. Then they called me twice to return for a check-up, without asking me for anything. With my passport I got the health card and with this card I went for all medical visits... I was treated very well, for sure.” [Elaine, August 12, 2012]

Although all the undocumented respondents declared having received treatment, not all expressed satisfaction with the level of service rendered. For example, in one case, the interviewee felt discriminated on account of his skin colour and the hospital had to formally apologize:

“There was (racism) but not in a clear, explicit way... but it obviously happened. The man was racist, but I risked facing this in Brazil, too (...) Maybe a mixture of the Spanish temper with prejudice... It happened once, but I went in and complained about it right away. The following month, they were treating me like a king. Inside the hospital, there is a department that is kind of like a syndicate for patients and I lodged a complaint. I received a letter from the hospital board apologizing and saying that this

¹⁰⁰ In this respect, it is similar to the British public system and very different from other European systems, such as in Germany or the Netherlands, which are funded by employee contributions to certain public insurance companies.

¹⁰¹ We would like to emphasize that some autonomous communities (Andalusia, Asturias, Basque Country and Catalonia) have decided to continue providing medical care to undocumented aliens.



would not happen again. This could have happened anywhere in the world, but the most important thing is to have the attitude of a citizen and know that you can claim your rights, because a lot of immigrants are afraid of retaliation." [Álvaro, September 16, 2012]

In another case, the interviewee was admonished for directly approaching the emergency ward without first visiting her private doctor:

"I had a really sore throat for days and did not go to the doctor. Then, one day, it was the weekend and I was feeling really bad and I had to go to the emergency, so the doctor scolded me, saying I did not have to be there, that I had to visit my doctor first, he was really cold. But he saw me and prescribed the medications." [Aline, September 16, 2012]

Only one of the undocumented foreigners we interviewed stated that the health centre did not renew her health card after the last legislative change. She expressed some concern for the future of her health and that of her family:

"I have the 'tarjeta' but they didn't renew it, I tried but they didn't want to. Now I got a health insurance... My niece is undergoing treatment. We don't know how it's going to be, if they are going to continue treating her, we still haven't gone back there." [Maria, September 12, 2012]

Among the respondents with legal status, the majority appeared satisfied with the services provided by the Spanish healthcare system. One respondent, who had to undergo an intervention for a spinal injury, stated that he was treated much better in Spain than he would have been in Brazil:

"They treated me just like any other Spanish citizen, they never questioned anything. In Brazil, they wouldn't have done the post-op treatment that they did here with no charge. I had to keep changing bandages for eight months, which cost about €200,000, and they even implanted a prosthesis." [José, July 29, 2012]

Another respondent declared that he was completely in favour of the public healthcare system over the private one:

"The public health system here is very slow, but I think doctors from the public system are more efficient than the private ones. According to the people I talked to, the private system is a lot faster, but it's like an operating machine... it's an industry. You can't complain (about the public health system). The doctor they recommended helped me with every little problem. I once went there with a cold and she prescribed medication for it. I am only going to pay for physiotherapy, just for my convenience, a very low price. (...) the bank (where I work) has a physiotherapy department to avoid employees leaving the office, but it's my choice." [Fernando, September 19, 2012]

It is worth mentioning the exceptional case of Brazilians with student visas in Spain who do not have access to the public healthcare system and therefore usually need to purchase a very expensive private insurance before leaving Brazil. Only one of the students we interviewed benefitted from an agreement between Spain and Brazil that allowed him to have access to social security:



"I was treated by taking advantage of an agreement between Brazil and Spain that allowed me to have access to social security in Spain by paying for INSS (National Institute for Social Security) in Brazil, which lasted for up to two months." [José, July 29, 2012]

According to our informants, the governments of Brazil and Spain decided not to renew the agreement three years ago,¹⁰² which is why another student we interviewed stated that she was unable to benefit from it despite being aware of its existence:

"First, I went to a health centre in the neighbourhood and they treated me very well, but they referred me to a hospital and there I didn't receive treatment because I didn't have social security. They were courteous, but they informed me that without the card I would receive a bill at home with all the costs. Even though I explained it was an emergency and that there is a treaty of reciprocity of social security with Brazil, it wasn't enough for them to see me. After that, I didn't even try the public system again; I just went straight to the private one." [Luisa, September 19, 2012]

6.3.7 Access to social benefits

The availability of information is a key factor to access certain social benefits. Immigrant associations seem to have been a useful instrument for this, although few of the respondents have approached them for help. Immigrants who went to the associations did so in order to acquire information on regularization (Adriano), the health card (Baiano), validation of a diploma (Sílvia) or, in the case of Álvaro, about work or vocational training:

"I resorted to the immigrant services to find out about working, such as the Red Cross, and also for information on vocational courses." [Álvaro, September 16, 2012]

What is particularly noteworthy is the low estimation of Brazilian associations as sources of help and information. One possible explanation for this was given by a representative of the General Consulate of Brazil in Madrid, who said that the Brazilian community in Madrid is less organized than it is in other European and Latin American cities. A few of the foreign respondents went to public employment centres to seek jobs. All those who did so claim that these centres were unhelpful for their job search:

"They assisted me normally but never called me back. I was waiting for it and even had to pay. If it wasn't for friends, I would still be unemployed." [Juliana, September 16, 2012]

In all cases, it was reaffirmed that access to certain social benefits depends largely on the legal status of the individual. In fact, most Brazilians with regular status received some kind of benefit, such as unemployment insurance (Fernanda, Julimar, Sara, Lola), maternity leave, early retirement (Lola) or scholarships for their children. Sara's case is especially interesting in that she, besides having received institutional support for buying an apartment, also had access to a wide range of social benefits:

¹⁰² According to one of the institutional informants we interviewed for this study, this failure to renew was caused by disagreements between the Brazilian and Spanish governments about the amount of money that Spain should receive from Brazil.



"I get a benefit for 'minusvalía' (handicap) of €180 per month, indefinitely. I have also received unemployment insurance and a subsidy for my daughter, extra money that they give you for having dependent children. Before then I didn't ask for anything because she used to live with her father, but now I do. I also had maternity leave, pregnancy subsidy and 'jubilación por enfermedad' (early retirement on account of ill-health)." [Sara, September 12, 2012]

6.3.8 Perception of social and political rights

Brazilians living in Spain seem to have very limited knowledge of their social and political rights. However, the degree of knowledge depends to some extent on their legal status and period of residence in Spain. A few of the respondents with irregular status said they knew their social rights:

"I think I don't know enough about what I could have a right to or not. But I know there are some benefits that I can have." [Laura, September 16, 2012]

"Two years ago my passport was retained and I had to go to the Consulate, so I asked about it. I know a thing or another, but I don't know everything because it's always changing. I know the basics." [Adriano, September 18, 2012]

However, it was also observed that there is some lack of information among the most privileged immigrants, like regular workers and students. Almost all claim to know the rights and social benefits to which they have access, but few know them in much detail. Besides José and Luisa, who have greater knowledge due to their legislative training, only one interviewee among the legal workers demonstrates his awareness that contributions to the Spanish social security are valid in Brazil:

"(I know) because it was the first thing the bank asked for... in fact, it was the only thing the bank asked before hiring me. Since I'm a European citizen, they asked me to register with social security in order to get the work contract." [Fernando, September 19, 2012]

It is worth noting that, surprisingly, almost none of the respondents perceive differences between the rights of Spanish and Brazilian nationals. The only exception in this respect is the (unusual) opinion of Baiano, who said that foreigners have more social benefits than the Spanish people:

"I don't see any difference (in the treatment provided by authorities to Spanish individuals and foreigners), on the contrary, I even think that foreigners have a lot more access to social benefits than the Spanish citizens themselves." [Baiano, September 17, 2012]

It is also important to note that the majority of the respondents who have regular status or permanent residence claim to know their political rights, but only one student demonstrates that she knows exactly what they consist of:

"From what I know, it's possible to vote from here for the elections in Brazil." [Paula, September 18, 2012]



6.3.9 Social networks and daily life

Social capital is a fundamental factor for the everyday survival of irregular migrants. As we have seen, most of them have received support from friends and relatives living in Spain to find housing and work. Some of the respondents are still living with or have a very close relationship with their families in Spain. Examples include Aline, who lives with her mother in Madrid; Maria, who lives with her husband, sisters and niece; or Baiano, who frequently visits his brother and aunt in Madrid. However, a significant number of respondents also have families in Brazil who depend on them financially. Álvaro, Laura and Julimar are responsible for their children in Brazil, while Sílvia is responsible for her nephew. In this context, Julimar's case is particularly interesting: he came to Spain to earn enough to finance his three children's college education, but he wants to go back to Brazil once he has achieved his goal:

"I want to go back because I have fulfilled my goals, which were... My savings were for my children's college expenses. I used to send money directly to their colleges there; this was my savings account, so it is basically... Next year my youngest one will graduate." [Julimar, September 12, 2012]

The migration route did not interfere in family life or cause marital separation for most respondents. The only exception is Laura:

"After I came here, I got separated. I became divorced while I was here." [Laura, September 16, 2012]

It was observed that the immigrants' legal status undoubtedly influence their lifestyles, problems and friendships in Spain. The five respondents who came to Spain for education have both Spanish and Brazilian friends, as well as friends from other countries due to the academic environment in which they live. However, their status as students did not prevent them from having problems with bureaucracy or in searching for an apartment:

"To me, the bureaucracy was strong in relation to documentation, difficulty in (finding) housing, lots of bureaucracy." [Luisa, September 19, 2012]

Both regular and irregular immigrants were able to solve most problems with the intervention of friends, family or, in the case of students, with assistance from schools or universities. It is also worth mentioning the problems of adaptation to Spanish culture and behaviour, as indicated by more than one interviewee:

"I had difficulties in adapting to the Spanish culture when I came here. People are very rude, it's a very brusque type of treatment, I didn't adapt at all." [Paula, September 18, 2012]

"The hardest thing to me was getting used to their habits, the people. I felt welcomed because I came to a house with relatives, but I can imagine people that come here suffer a lot with that." [Sílvia, August 14, 2012]

"I had a little difficulty with the people. I didn't like them, but I just really didn't accept another culture." [Fernando, September 19, 2012]

As demonstrated, difficulties in adaptation also exist among Brazilians who have arrived and reside in Spain in a more "privileged" manner. According to the director of Casa do Brasil, there is a tendency among Brazilians, at least in their early experience of Spain, to think that the behaviour of Spanish people is rude. In his opinion, the reason has much to do with the "imperative" manner of speech among Spanish people:



"This also happened to me. The way the Spanish people express themselves is in the imperative, in a natural form (...). Brazilians talk more softly, the Spanish people are more direct. This 'hurts' Brazilians, but it's not a matter of discrimination. But this is just in the beginning. Soon you understand the rules of the game and the problem is over." [Cassio de Almeida, director of Casa do Brasil, November 13, 2012]

The opinion of the director of Casa do Brasil was confirmed by a representative of the General Consulate of Brazil in Madrid, who said Brazilians experience a cultural and linguistic shock at the beginning of their stay in Spain.

According to these two interviewees, this is a problem of perception that is solved with time. Another problem faced by more than one respondent is the language. Five respondents, three of them undocumented, have had difficulty learning Spanish. However, in this case, help from the social environment and the media was also essential. Adriano, for example, said he could learn Spanish with the help of his boss and friends, as well as by watching television and reading the newspaper:

"The owner of the clinic already knew that I didn't know how to speak (the language), so he always helped me speak. And I used to always work with Brazilians, so I always had my friend asking if I would go to a bar, so I was learning. I used to watch a lot of television when I first arrived, especially the news, in which they spoke more correctly." [Adriano, September 17, 2012]

In only one case, the interviewee decided to take a course to learn Spanish:

"The language was my greatest challenge. So I studied for a month and then learned the hard way." [Juliana, September 16, 2012]

It is important to note that, as already suggested by several studies on the lives of undocumented migrants (Bommes and Sciortino: 2011), the majority of the respondents in an irregular condition maintain a normal social life, which includes several activities. In only one case, Maria's, the social life is closely linked to church. Finally, only two of the respondents complained of personal inspection on the streets. Both Adriano and Juliana said that they were fined by the police and received a deportation letter after being stopped by the police. Consequently, both said they are currently trying to stay more at home with friends to avoid further arrests:

"There is a lot of police control here. I have already paid a fine here for being illegal. The police caught me and I had to pay a €500 fine because I didn't have the DNI (national ID). I received a deportation letter right after the fine, the second time. I was already caught twice here." [Juliana, September 16, 2012]

"I hardly ever go out because I have had a problem with immigration. And I have a pending trial, so I avoid exposing myself." [Adriano, September 18, 2012]

6.3.10 Return to Brazil

Returning to Brazil does not seem to be a popular option among the Brazilian immigrants, according to the business and institutional representatives we interviewed:

"The ones [workers] we have do not want to go back. And I know two corporate workers that don't want to go back either. They like Spain (...).



The Spanish people that go to Brazil, 90% of them (want to return) (...)" [TELECOMM, November 12, 2012]

"Brazilians, at least the ones I know (...), come here with the intention to stay longer than when the Spanish people go to Brazil, since they go with the idea of spending a short period of time, that everything is all right, very comfortable, but their goal is to return to Spain, go back to Europe. On the other hand, maybe the Brazilians would not mind establishing residence in Spain." [Rafael López de Andújar, Hispanic-Brazilian Foundation, November 14, 2012]

However, it was observed that the desire to return also depends on the respondent's status of residence and family situation. Most irregular immigrants, for example, would return to Brazil if they had money to do so or a job offer in Brazil:

"Look, I would only (go back to Brazil) if it was for work purposes... I cannot understand why they invite the Haitians to work, who have no qualifications, as a Brazilian citizen I would only go back if I had a job offer, but a really good one, I'm not going to accept just anything: only if it's a good job offer." [Álvaro, September 17, 2012]

The majority of the respondents who have student visas plan to return to Brazil, since their stay had been intended from the beginning as short term. However, there are differences. Guilherme, for example, would stay if he got a job offer, while José does not intend to return to Brazil, even though he has a student visa:

"For now I don't think about definitely returning (to Brazil). Firstly, I intend to stay here because of the quality of life, and at my age I think about this more than saving money. (...) As a long-term goal, I plan to open a law office here." [José, July 29, 2012]

Among the respondents with a legal residence permit, not everyone thinks about staying in Spain. There are those who have already scheduled their return dates: Fernando and Julimar, as we have seen, want to return to Brazil because of their children. In another case, the possibility of return depends on the family's situation:

"I think that wherever there is a better opportunity for both, for the couple... because, since he is finishing school, after that if he gets an opportunity to work abroad, we will go. Not necessarily (to Brazil)." [Sílvia, August 14, 2012]

Finally, there are also those who would not return to Brazil but go elsewhere, such as Maria and Gilson, who would go to Italy because they have an Italian passport. Most respondents claim to know about the IOM's return programme, but say that they would not use it to return to Brazil:

"I don't plan to use it to return and I think it is foolish to do so. Because you've been here for so many years and...you go there and give the document and... after so many years suffering here and you didn't even get the Spanish citizenship. Then, you get to Brazil and you see the reality, everything is so expensive, you want to come back and you can't, how are you going to come back if you gave the document away?" [Gilson, September 18, 2012]

In fact, the IOM's return programme was only used by an interviewee's mother, highlighting the low prevalence of this programme in the return strategies of immigrants, not only in Spain but also in other European countries.



6.3.11 Acquisition of Spanish nationality

All of the respondents have Brazilian citizenship, although two of them also have Italian citizenship (Fernando and Gilson), one (Guilherme) is in the process of acquiring Italian citizenship and another (Gitanio) has Portuguese citizenship by descent and does not intend to apply for the Spanish one. According to the survey, most undocumented migrants see acquiring Spanish citizenship as an opportunity to have a more comfortable life or find work more easily, in Spain as well as other countries. Juliana, for example, summarizes the opinion of all irregular immigrants in this respect:

"I still have not asked for (the Spanish citizenship), but I think about (asking for it) (...) in order to facilitate things for me because I don't ever think about leaving. So I want to stay, but I also want to go to Brazil on vacation. But first I have to get the 'tarjeta', the first 'tarjeta,' and then when I get the second one I can ask for (the citizenship)." [Juliana, September 16, 2012]

However, not all respondents applied for Spanish citizenship after obtaining a residence permit. It is important to highlight the cases of Aline and Elaine, who did not apply owing to the excessive bureaucracy. Among the respondents who already have a residence permit for study or work, the Spanish citizenship presents a different kind of attraction depending on their duration of residency in Spain. Some people do not want to apply for it at present, but may apply eventually for work-related reasons:

"At the moment, for me it's better to just be a student and I don't have the 'Spanish dream'. But I will want it in a while from now because I plan to open an office here." [José, July 29, 2012]

Finally, we must mention the group of respondents who have already applied for Spanish citizenship. All of them agree that it is a very long and bureaucratic procedure. However, the purpose of offering citizenship is actually to avoid the excessive bureaucracy surrounding the renewal of long-term residence permits. This was attested by Fernanda as well as Lola, who requested the citizenship by descent. In general, all of the respondents consider Spanish citizenship to entail a greater freedom of movement. Only two of them stated that obtaining the Spanish citizenship does not involve any significant change in their lives:

"I don't think that (the Spanish citizenship) is going to change anything, but I'm just going to get it because I am entitled to it, I'll just request it because it's my right." [Julimar, September 12, 2012]

"I don't think (getting the citizenship) is going to change anything, but I think I have the right to it, so I requested it." [Baiano, September 18, 2012]

6.3.12 Role of migration support institutions

Only a few respondents believe that Spanish and Brazilian institutions do not need to improve their practices towards Brazilian immigrants, nor do Brazilian immigrants need to receive greater attention from these institutions. For instance, Sílvia and Fernando:

"I think the immigrant doesn't need it... The belief I have is that the immigrant is always a winner. Even the Chinese who works at the corner, that barely knows Spanish, is getting a lot more money than the Spanish people." [Fernando, September 19, 2012]



The majority of the respondents said that the Spanish institutions should improve the quality of information available to immigrants, both on legal issues and administrative procedures relating to entry and residence in Spain. There are those who want a simplification of the process for obtaining the NIE – the Spanish ID (Gitanio), a simpler scheme to legally enter Spain (Juliana), channels to facilitate access of foreigners to the labour market (Gilson and Baiano) or the regularization of undocumented workers:

“The Spanish government should conduct more frequent inspections and investigate the lives of undocumented immigrants. And then legalize those who are working in the black market. If they work, they get to stay; if they don't work, they have to go away.” [Elaine, August 12, 2012]

There are also those who emphasize the need for the Spanish government to provide more information to immigrants:

“If you think about it, they think that the immigrants are to blame for the whole situation, but if they deport all immigrants, this place will become a desert. The immigrants are very important, it's another culture. And they (the Spanish) can also immigrate. So I think that it (the Spanish government) should provide more information on how to get here (...), because I think it is wrong to spend a lot of money to come here and then get barred, it's absurd.” [Adriano, September 18, 2012]

It is interesting to note that the lack of information is also a problem mentioned by all students. Moreover, one of the students we interviewed considers that the government needs to reduce the bureaucracy involved in renewing a student visa or allowing students to have access to social security. Therefore, it seems that students, even though they belong to a “privileged” category, have also encountered certain difficulties with bureaucracy and access to public services. Finally, it is significant to mention the protests of those who ask for a ban on the inspection of residence documents on the streets:

“In first place, (the police) should stop approaching us on the streets, because this restricts the freedom to come and go that everybody has. One thing is when the person commits a crime, another thing is a person who is just working... They don't even let you work. This happened at the coffee shop, where I was at the kitchen, at night, and they caught me there working. They didn't catch me committing a crime, I was working. So it makes you think: if I travel, what will happen? Using the train is horrible. As soon as you leave the train, right there at the hall, there are strong men who approach you. Why do they stop you? You didn't do anything.” [Álvaro, September 17, 2012]

A minority of the respondents were satisfied with the operation of Brazilian institutions. All of these respondents have been in Spain for many years, like Fernanda, and have already had some contact with these institutions. However, most respondents regret the lack of information and criticize the scant communication between Brazilian citizens and the Consulate, as well as the lack of information provided by the Consulate:

“The Consulate of Brazil should be less branched, have more public relations and a better general view.” [José, July 29, 2012]

“I think Brazil should be less rigorous with the immigrants that live there. And provide more information here. The Consulate does not have clear information; this should be more directed to those who are just arriving.”



They say there is information on the website, but there are a lot of people who don't know how to use a computer." [Gilson, September 18, 2012]

According to most respondents, Brazilian institutions should provide more information about the political rights of Brazilians in Spain, about how to submit the income tax declaration in the country, and that they should also create a website to address the main questions of immigrants relative to their stay. Some think that there should be an agreement to provide health insurance to irregular immigrants, following the recent reforms, while some consider that the Brazilian government should offer Spanish courses for those who want to emigrate. Almost all of the irregular respondents believe that the Brazilian government would have to reach an agreement or at least establish a dialogue with the Spanish government to resolve the situation of Brazilians who are undocumented migrants in Spain:

"These are very fragile support bases. Brazilian citizens are never defended (...). In my opinion, (illegal Brazilians in other countries) are non-existent; they don't matter to the Brazilian government. There is no protection." [Álvaro, September 17, 2012]

Elaine, who tried to regularize her status twice with no success, affirms that the Brazilian government should do more to try and prevent Brazilians from leaving the country:

"The Brazilian government should, in the first place, try to avoid that so many Brazilians leave the country. There are a lot of Brazilians that come over without appropriate information and go through bad times. Then it is the Brazilian government that should provide support for these people to go back. The Spanish government is the one who helps them, and this is not fair, the Brazilian government should be the one doing it." [Elaine, August 12, 2012]

In short, almost all Brazilian respondents demand a more active role by both Spanish as well as Brazilian institutions. However, the representative of an NGO working with the Consulate of Brazil in Madrid not only denied the lack of information reported by many respondents, but also noted a certain lack of interest on the part of the immigrants themselves:

"This year we have conducted a series of talks and workshops to talk to the community about themes of interest to them, to help them integrate more easily, but no one came. We exhaustively disseminated information through various channels and no one showed up, and they were themes of interest to the community, such as the health card, how to find a job, how to make a resume, what it means to be illegal in Spain, their rights and duties." [Association, November 29, 2012]

The same consular representatives stated that many immigrants who feel "lost" in Madrid tend to blame the Consulate for problems that have nothing to do with consular activity. An official concluded his critique by referring to improvements made by the Consulate in recent years:

"In the past, there used to be a lot of complaints, really a lot of them, because we had only a few employees. Now, after a long struggle with Brazil, we were able to increase the number of employees. And now, if people come with all the necessary material, their documents are processed very fast (...) I believe the Consulate has to continue improving: not change, but to continue along this path. I don't see the need to do something new, just keep on improving. For people to acquire the maturity of living in another country, is a process



that takes a while. Communities from other countries, the Ecuadorians, who have been here for longer, are getting adapted and the Brazilians are learning.” [Consulate, November 29, 2012]

6.4 Conclusion and recommendations

The aim of this study is to evaluate the access of Brazilian immigrants to key political and social rights in Spain. The interviews show that the level of integration of Brazilian immigrants and the rights to which they have access are primarily dependent on their legal status. Brazilians legally residing in Spain can take advantage of a very broad range of rights in access to housing, healthcare or education, as well as fairer contract terms if they have jobs. However, not all respondents demonstrate profound knowledge of the rights to which they are entitled. All who used the healthcare system recognized its effectiveness, but only one of the interviewees knew that his contributions to social security in Spain could also be used to contribute towards his retirement pension in Brazil. We also observed several cases in which the respondents did not take advantage of all the services to which they are entitled. None of the Brazilian interviewees, for example, enrolled their children in public schools. Finally, especially among Brazilians who have been living in Spain for many years, gaining Spanish citizenship is not seen as a means of integration, but simply a way to avoid bureaucracy, to have more rights and an easier life.

Irregular immigrants are in a clearly more unfavourable condition. All undocumented interviewees have employment and housing through the help of friends or family. Most believe that their work and wage conditions are unfair in comparison to those of other immigrants. Nevertheless, the majority of undocumented Brazilians manage to enjoy basic rights, such as access to the national healthcare system, and recognize that their daily life despite the irregular status is easier in Spain than in other countries. Nevertheless, they are aware of the disadvantages of living in an irregular situation and consider regularization as their primary goal. Indeed, it was found that many of them are taking steps towards becoming regular or have already succeeded in it.

In general, we can say that the kinds of rights that Brazilians have access to, as well as their perception of these, are relatively satisfactory. However, it is possible that this perception could change after the latest reforms that were mainly aimed at irregular immigrants. Moreover, interviews with both migrants and institutional representatives showed a series of administrative and legal gaps that should be taken into account when elaborating policies of integration and new forms of bilateral cooperation between the two countries.

The interviewed migrants and institutions involved in this study, except the Consulate, said that the lack of information represents a major gap in the integration process of Brazilian immigrants and their access to their main rights. In the words of the director of *Casa do Brasil*:

“Many times, people come here misguided. There are cases that show up in the newspapers, such as prostitution. Not only that, people that come are mistaken because they think since this is Europe, it’s easy to find a job... and when they get here the reality is very different. So I believe they should provide society a little more information to prevent deception, since people come believing that they get here and everything works just fine, but instead, there are a lot of people here that believe Brazil is in need of a specialized workforce... People from the high society; we can say the game has changed.” [Cassio Romano, November 13, 2012]



Therefore, it could be particularly useful to inform Brazilians before leaving for Spain about the long-term risks involved in irregular migration. In fact, all of the institutional representatives we interviewed consider the situation of undocumented Brazilians particularly vulnerable, since it deals with migrants “who are outside the system” (Cassio Romano, November 13, 2012). Besides the problem of irregularity, Brazilians who come to Spain to work regularly or to study also have to face a series of important obstacles, notably the very slow bureaucratic procedures. This issue was addressed by the director of the Hispanic-Brazilian Foundation:

“The subject of residency is getting resolved, because none of the countries want this kind of problem to exist, they want there to be no impediment between the two countries.” [Rafael López de Andújar, November 14, 2012]

Particularly relevant are the difficulties faced by Spanish companies when hiring Brazilian workers:

“We are a new company, with only two years of experience (...) and we are dedicated to informational systems which are very complicated. We need to have a description of the position, because we don't have this profile in Europe, for example, we have it in Brazil, because we want that person specifically, we know his name and last name. (...) When you already have someone very specific for a position (...) it is not very hard to show that we are definitely seeking for a profile that we cannot find here.” [TELECOMM, November 12, 2012]

Hiring is easier when if a Brazilian applicant for a specific position has a European citizenship as well:

“This usually doesn't happen in Brazil. The Brazilians we hired did not have (a European passport). But, in Argentina for example, this happens a lot. Things are very different, you go from a process of at least six months to one that lasts a month, a month and a half.” [TELECOMM, November 12, 2012]

This declaration was reinforced by the statement of one respondent:

“I had the opportunity (to come to Europe), so I accepted it. I entered using my Italian citizenship. If I didn't have it, the bank would have arranged all the proceedings, by transfer, but having an Italian citizenship helped. (...) Since I'm a European citizen, the only thing the bank asked me was to register with social security (...) and the next day I was hired (...). I did not deal with any bureaucracy, which was different from my Brazilian friends who work at the bank.” [Fernando, September 19, 2012]

Another significant difficulty is the recognition of foreign qualifications. All institutional representatives we interviewed acknowledged this to be one of the fundamental obstacles to the fluid exchange of workers between Brazil and Spain:

“This is a clear problem. A little while ago a Spanish professional told me that there (in Brazil) Spanish higher education titles are not recognized in the law field (...). So, when there is a governmental bidding, he needs to work with a Brazilian 'partner'. There is a strong protectionism that is reciprocal. So I believe that it is very important for them (diplomas) to be recognized.” [Rafael López de Andújar Hispanic-Brazilian Foundation, November 14, 2012]



The director of Human Resources of the Hispanic-Brazilian Foundation confirmed that these difficulties also affect senior management positions. According to an institutional representative we interviewed, one of the main reasons for these difficulties is that the Brazilian government applies the principle of reciprocity in all areas.

In addition to the problems of workers, it is interesting to observe that students also have to face major difficulties. Not only students, but also the institutions we interviewed criticized the slow process to obtain a permanence visa for studies:

"The only criticism I have is that at many times the process for getting a visa is long. It has happened many times to our students, even when they had scholarships from the Brazilian government, all the documentation, the process at the Spanish Consulate in Brazil takes a long time. Sometimes they opt to come as tourists, stay here for three months, since classes start in October, and then return in December to get the visa. (...) It's a process that takes six months. I believe there should be a fast way." [Cassio Romano, Casa do Brasil, November 13, 2012]

It is also notable that Brazilian students in Spain have no access to the health card since the health agreement between Spain and Brazil was not renewed, which provokes a certain feeling of discrimination with respect to other communities.

To summarize, information, efficient management and mutual recognition of academic and professional qualifications through further bilateral cooperation should become priority objectives of the relations between Brazil and Spain. These acquire a special importance especially after the announcement of Spain's intention to encourage the flow of labour immigration from Spain to Brazil:

"Due to the crisis in Spain, many Latin Americans are returning to their countries, sometimes with skills they didn't have before, and there are also young, well-educated Spanish people who are looking for a job opportunity. We don't need to see it as something negative. We are studying new forms of emigration to facilitate their labour integration. There is a deficit of superior technicians in countries like Colombia, Peru or Brazil, where they could be welcomed." [El País, December 11, 2012]

None of the Brazilian institutions we interviewed wanted to take a clear stand on intensifying bilateral cooperation, and we were not able to speak to Spanish institutions on this topic. However, all institutional representatives we interviewed suggested that in reality they are working on it. In fact, the willingness to cooperate on immigration issues was reiterated by the governments of both Brazil and Spain during the visit of President Dilma Rousseff to Spain. The Brazilian Minister of Education, Aloízio Mercadante, confirmed this at a press conference with Spanish journalists:

"Even if there are no formal agreements of cooperation between the two countries for the exchange of highly qualified workers, the Brazilian government is considering facilitating the entry of doctors and engineers from Spain and Portugal. It is always the best option to have doctors who graduated here, but Brazil is attracting a lot of qualified labour and this interests us. This is because it takes them six years to graduate and the country currently has a deficiency of doctors and engineers." [Aloízio Mercadante, November 19, 2012]



The existence of a mutual interest for exchange was noted by the President of Brazil:

"We observe with satisfaction the progress in relation to the treatment of Brazilian travellers in Spain. The agreements they have maintained through the last months have had positive results. We need to amplify these advancements to increasingly stimulate the flow of people between Spain and Brazil in a mode that is compatible with the historic ties between the two countries." [Dilma Rousseff, November 19, 2012]

According to most respondents representing institutions, fostering bilateral cooperation would be particularly beneficial for small and medium-sized Spanish companies in this time of economic crisis. As they wait for concrete steps, Spanish entrepreneurs are optimistic:

"Brazil had an enormous transformation in economic and social aspects, reducing inequalities and maintaining the level of employment amidst a global crisis. It's an example to the world and in the end this attracts foreign investment, which observes how things are being done correctly. Companies look for security and this is what Brazil is offering at the moment. We find the same in any other developed country, but with a difference (in Brazil): the country overflows with optimism. They have the coming Olympic Games and the organization of a world soccer tournament. I think this is the moment for Brazil." [Rafael, entrepreneur, November 19, 2012]



REFERENCES

Arango, J. (2000), 'Becoming a Country of Immigration at the End of the Twentieth Century: The Case of Spain', in: R. King (ed.), **Eldorado or Fortress?**. London, pp. 253-276.

Bommes, M., G. Sciortino (coord.) (2011), **Foggy Social Structures: irregular migration, informal economy and welfare regimes**. Amsterdam: Amsterdam University Press.

Comisión de Derechos Humanos del Congreso de Europa (2012), **Las protección de los derechos de las personas migrantes en Europa**. Madrid.

Finotelli, C., (2011), 'Regularisation of Immigrants in Southern Europe: What can be learned from Spain?', in M. Bommes and G. Sciortino (eds), **Foggy Social Structures, European Labour Markets and the Welfare State**. Amsterdam, Amsterdam University Press, 189-210.

Finotelli, C., J. Arango. (2011), Regularisation of Unauthorised Immigrants in Italy and Spain: Determinants and Effects, **Documents d'Analisi Geografica**. 2011, 57(3): 495-515.

Finotelli, C., M.C. La Barbera. 2012. La ciudadanía spagnola. Normativa, prácticas e dilemmi, in www.vecchiocontinentenuovicittadini.eu.

Finotelli, C., G. Sciortino, Through the Gates of the Fortress: European Visa Policy and the Limits of Immigration Control, **Perspectives on European Politics and Society**. 14(1), pp. 80-101.

Oliver, J. (2008), 'Inmigración y mercado de trabajo en 2007: el último impulso de la década prodigiosa', in E. Aja, J. Arango and J. Oliver (eds.), **La inmigración en la encrucijada**. Barcelona: CIDOB, 16-35.

Sebastán M. y A. Melguizo (2004). "Inmigración y economía: un enfoque global" en **Economía exterior: estudios de la revista Política Exterior sobre la internacionalización de la economía española**. 28, 27-36.

Solé, C., L. Cavalcanti, S. Parella, 2011, **La inmigración brasileña en la estructura socioeconómica de España**. Madrid, Secretaría de Estado de Inmigración.



Annex 1: Summary of interviewed migrants

#	Name	Gender	Age	Nationality	Year of arrival	Status		Level of education	Current job	Family in Spain
						Illegal	Legal			
1	Adriano	male	34	Brazil	2006	x		High school	Delivery of advertisement and waiter	No
2	Álvaro	male	43	Brazil	2007	x		Superior	Documentation agency for Brazilians	No
3	Gitanio	male	32	Brazil	2011		x (student visa)	Superior	Student	No
4	Luisa	female	32	Brazil	2011		x (student visa)	Superior	Student	No
5	Juliana	female	29	Brazil	2008	x		High school	Maid	No
6	Aline	female	22	Brazil	2008	x		High school	Maid	Yes, mother
7	Laura	female	31	Brazil	2008		x (residence permit/work contract)	Middle school	Maid	No
8	Elaine	female	61	Brazil	2005	x		High school	Maid	No
9	Maria	female	38	Brazil	2008	x		High school	Autonomous cook	Yes, sister and niece
10	Fernanda	female	37	Brazil	1992		x (residence permit/married to a European)	Superior	Business woman	Yes, daughter
11	Baiano	male	32	Brazil	2006		x (residence permit/work contract)	High school	Unemployed	Yes, aunt
12	Gilson	male	23	Brazil	2011		x (residence permit/Italian passport)	Technical	Delivery of advertisement	No
13	José	male	52	Brazil	2007		x (student visa)	Superior	Legal consultant	No
14	Fernando	male	36	Brazil, Italy	2006		x (residence permit/Italian passport)	Superior	Financial analyst at a bank	No
15	Julimar	male	50	Brazil	2003		x (residence permit/work contract)	Technical	Driver	Não
16	Sara	female	44	Brazil	1989		x (residence permit/transfer from former employer)	Superior	Nurse	Yes, daughters
17	Lola	female	52	Brazil	1981		x (residence permit/married to a Spanish citizen)	Superior	Does not work	Yes, daughter
18	Silvia	female	32	Brazil	2008		x (residence permit/married to a Spanish citizen)	Superior	Caregiver for elderly people	No
19	Paula	female	29	Brazil	2011		x (student visa)	Superior	Student	No
20	Guilherme	male	35	Brazil	2011		x (student visa)	Superior	Student	Yes, wife and daughter

Annex 2: Summary of the interviewed institutional and business representatives

Institution/Company	Interviewee	Date
Spanish Telecommunications company	Director of Human Resources	November 12, 2012
Casa do Brasil	Director	November 13, 2012
Hispanic-Brazilian Chamber of Commerce	Director	November 13, 2012
Hispanic-Brazilian Foundation	Director	November 14, 2012
General Consulate of Brazil	Vice-consul	November 29, 2012



7. SPANISH AND PORTUGUESE CITIZENS IN BRAZIL: THE RECENT MIGRATION¹⁰³

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Maria da Consolação Gomes de Castro¹⁰⁵
Silvana Pena Knup¹⁰⁶

7.1 Introduction

The migratory history of Brazil can be characterized by distinct moments in which pull and push factors favoured immigration or emigration.

In a broader analysis, until the middle of the last century, one could say that the country was a major destination for diverse flows of people, whether European or even African: including, in the latter case, the shameful and outrageous phenomenon of the slave trade.

The immigrants who arrived in Brazil in the 19th century to fulfill the political and economic interests of the Portuguese Crown were, in most cases, part of a migration process aiming to meet the growing demand for labour in the agricultural sector. This contingent, which largely comprised Europeans, in most cases Italians, was composed by other nationalities over time. From the early 19th century to the end of the third decade of the 20th century, more than 4 million foreigners came to Brazil.

Despite the scarcity of data sources, it is possible to draw a picture of this migration flow that, although devoid of precise information, may indicate its composition and trend. In the following paragraphs, we will discuss various sources of information that may not converge in the results due to the different places they originate from.

Hernando and Martinez (2006)¹⁰⁷ present a table prepared of data on the registration of entry by foreigners, in which they list the countries of origin of those who contributed the most to the process of international migration in Brazil during the 19th and 20th centuries.

¹⁰³ The following students also participated as interns in the data collection and information processing done in Minas Gerais, São Paulo, Rio de Janeiro and Rio Grande do Norte: Alice Izabel da Veiga (PUC Minas-MG); Aline Santos (USP-SP); Bruna Pimenta (PUC Minas-MG); Cristiane Araújo (UFRN-RN); Tatiana Accioly (UFRJ-RJ); and Vanessa do Carmo (PUC Minas-MG).

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¹⁰⁷ Apud Hiroshi, Saito (org). *The Japanese presence in Brazil (A presença japonesa no Brasil)*. São Paulo, T.A. Queiroz, editor/ Editora da Universidade de São Paulo, 1980.



Table 11 – Immigrants' countries of origin by decade of arrival, Brazil (1810-1979)

Decade	Portugal	Italy	Spain	Germany	Others	Total
1810 - 1819					1,790	1,790
1820 - 1829				2,336	5,439	7,765
1830 - 1839	230	180		207	2,021	2,638
1840 - 1849	491	5	10	4,450	2,347	7,303
1850 - 1859	63,272	24	181	15,815	38,300	117,592
1860 - 1869	53,618	4,916	633	16,514	34,432	110,113
1870 - 1879	67,609	47,100	3,940	14,627	60,555	193,831
1880 - 1889	104,700	276,724	29,166	19,201	98,177	527,968
1890 - 1899	215,534	690,365	164,093	17,014	118,977	1,205,983
1900 - 1909	199,536	221,394	21,504	13,848	93,644	549,926
1910 - 1919	312,481	137,868	181,657	25,902	163,550	821,458
1920 - 1929	301,915	106,831	81,931	75,839	277,006	843,522
1930 - 1939	102,544	22,170	13,746	13,746	165,617	317,823
1940 - 1949	47,556	11,359	5,003	6,885	2,865	73,668
1950 - 1959	241,520	94,012	94,693	16,827	139,618	586,670
1960 - 1969	74,124	12,414	28,397	5,659	76,993	197,587
1970 - 1979	5,641	3,382	2,196	3,817	31,219	46,255
Total	1,790,771	1,628,744	627,150	252,677	1,312,550	5,611,892

Source: Hernando, Asunción M. and Martínez, Elda G. (2006 p.36)

Considering the whole period indicated in the table above, Portugal appears as the largest contributor of immigrants to Brazil (31.9%), followed by Italy (29.0%) and Spain (11.1%). Only at two points in the historical time series, the last decade of the 19th century and the first of the 20th, the volume of immigration by Italians surpassed the number of Portuguese. The Spanish remained the third-most important group of immigrants from the northern hemisphere throughout the period analyzed, except in the early 20th century, when their numbers were surpassed by the arrival of the Japanese.

For the most recent period, information provided by the Ministry of Justice on the number of foreigners with active registries suggests that the number of foreigners in Brazil increased by 34.0% between 2006 and 2012, from 1,175,353 to 1,575,643 immigrants. Amongst immigrants from northern hemisphere countries in 2012, the Portuguese totalled 330,860, representing 21.0% of the total; they were followed by migrants of Japanese descent, numbering 133,931 (8.50%); Italians, 99,336 (6.30%); and Spanish, 83,926, (5.32%).

In terms of the spatial distribution of these immigrants, 805,668 (51.1%) of them declared residency in São Paulo and 325,622 (20.6%) in Rio de Janeiro. The other states accounted for less than 30% of the foreigners living in Brazil.

Another source of information on international migration is the Demographic Census, which obtains data about the places of origin and immigration status of the general population through household surveys. Unlike the administrative registry, the census data is a snapshot of the current situation of the population that is composed of answers to the questions posed by researchers. Since this is a household survey, there is a tendency to underestimate the number of immigrants who are not always willing to go through an interview.

The following table presents data on immigrants (foreigners and naturalized ones) residing in Brazil in the years 2000 and 2010.



Table 12 – Immigrants in Brazil according to country of birth, 2000 and 2010

Country of birth	2000		2010	
	Volume	%	Volume	%
Portugal	213,203	31.18	137,973	23.28
Japan	70,932	10.37	49,038	8.27
Italy	55,032	8.05	37,146	6.27
Spain	43,604	6.38	30,723	5.18
Paraguay	28,822	4.21	39,222	6.62
Argentina	27,531	4.03	29,07	4.91
Uruguay	24,740	3.62	24,031	4.06
Bolivia	20,388	2.97	38,826	6.55
Germany	19,556	2.86	16,227	2.74
Other countries	180,022	26.33	190,349	32.12
Total	683,830	100	592,610	100

Source - IBGE, Demographic Census 2000 and 2010.

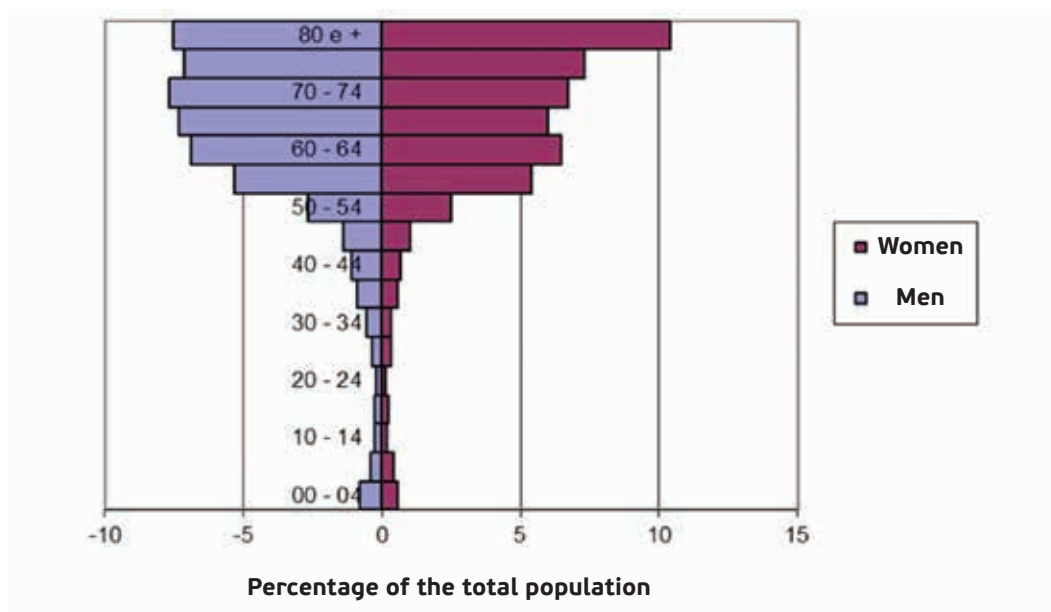
Between 2000 and 2010, the number of foreigners reported by the Census was 13.3%. Notably, however, immigrants originating from Japan and European countries are among those with the largest representation. In both years presented (2000 and 2010), the Portuguese continued to be the largest group among immigrants, followed by the Japanese. Italians and Spaniards, in 2000, occupied the third and fourth places, respectively, and in 2010 they were replaced by the Paraguayans and Bolivians. However, among the northern hemisphere countries, Spain and Italy maintained their position.

Regarding the spatial distribution of these immigrants, according to the 2010 Census, both the Spanish and Portuguese declared residence in greater numbers in the cities of Rio de Janeiro – 26.7% of the Portuguese and 13.7% of the Spanish – and São Paulo – 25.5% of the Portuguese and 25.7% of the Spanish.

Taking a closer look at the migration of the Spanish and Portuguese to Brazil, the information from the 2010 Census allows us to analyze the age structure of this immigrant population that, unlike other groups (Patarra, Fernandes: 2011), is strongly influenced by the elderly population.

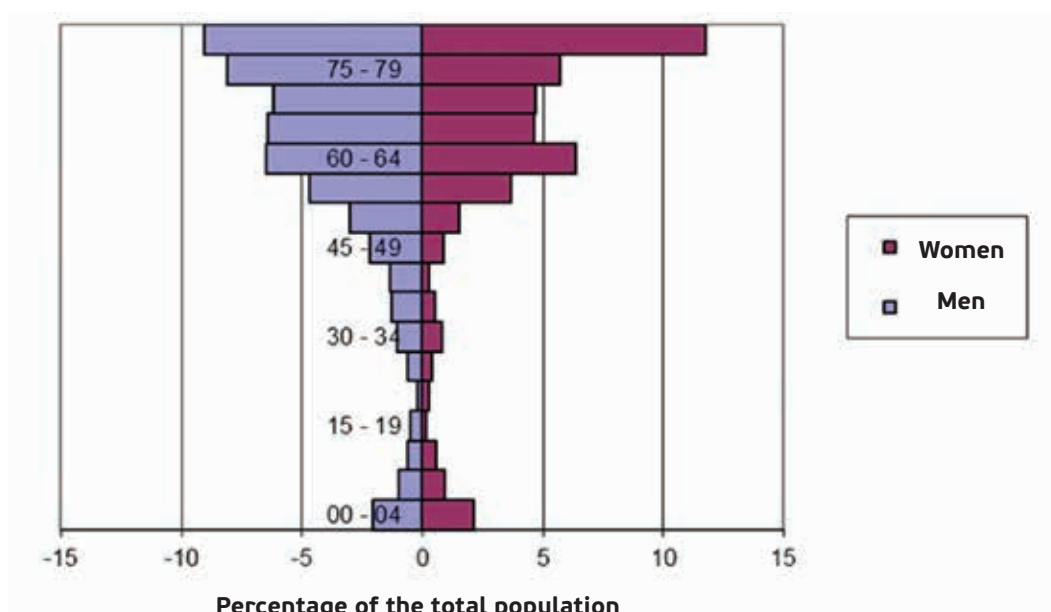


Graph 9 – Age Pyramid – Portuguese Immigrants in Brazil, 2010



Source: Census 2010/IBGE

Graph 10 – Age Pyramid – Spanish Immigrants in Brazil, 2010



Source: Census 2010/IBGE

One explanation could be that, in both groups, more than 50% of the immigrants in Brazil reported having arrived in the country between 1950 and 1960. However, in the case of the Spanish, 12.5% of them arrived in the five year period preceding the 2010 Census, and 42.5% of these were between 20 and 34 years old, which may indicate migration in search of better working conditions.



When considering the Portuguese and Spanish nationals who reported coming to Brazil after 2005, it is observed that 21.7% of the Portuguese claimed to have a bachelor's degree, compared to 29.9% of the Spanish. In the younger age group of 20 to 34 years of age, with the same period of arrival in the country, 42.9% of the Portuguese had a university degree, as did 68.3% of the Spanish. This is a much higher incidence of this level of education than what is observed among Brazilians in the same age group (10.5%).

Another source of information that allows the assessment of some aspects of the latest labour migration are the records of the National Coordination of Immigration (*Coordenação Nacional de Imigração*) of the Ministry of Labour and Employment. Since 2009, the number of foreigners applying to the Brazilian government for a visa has increased at an average of 25% per year, from 42,914 in 2009 to 70,524 in 2011.

In the reports released by the National Immigration Council (*Conselho Nacional de Imigração*, CNIg), two types of visas stand out: temporary visas for a maximum of two years, and permanent visas. In the first category, there are professionals who work on technical missions and ships, including oil exploration, artists, among others. Permanent visas are mostly given to corporate managers and individual investors.

Considering Portuguese and Spanish applicants for temporary visas, professionals with two-year work contracts from these two nationalities represent the groups with the highest numbers of Brazilian visa applications. In fact, between 2009 and 2011, the number of applications increased by four times for the Portuguese and three times for the Spanish.

With regard to permanent visas, applications filed by Portuguese and Spanish citizens are among the first four groups in terms of successful requests. However, when it comes to requests for permanent visas by entrepreneurs and leaders of multinational companies, the Spanish and the Portuguese occupy the second and third places respectively in the volume of demands.

Among applications by individual investors for permanent visas, Spanish immigrants occupy the second position in terms of the total amount of resources invested, while Portuguese immigrants occupy the third position. In 2011, as individual investors, the Spanish spent R\$31.1 million, 15.0% of all the funds invested in the country by immigrants, while the Portuguese spent R\$29.4 million, corresponding to 14.0% of the total.

In summary, despite the difficulty of acquiring accurate and even consistent information about Spanish and Portuguese immigrants in Brazil, the analysis of various sources suggests that we are observing two very distinct generations: one consisting of those who immigrated more than 50 years ago and another of those who made the shift in a more recent time, especially after the onset of the global economic crisis. In the group that arrived shortly before the 2010 Census, there is a strong predominance of young people with a high level of education. Of all the immigrants who obtain a permanent visa owing to investments in Brazil, the participation of Portuguese and Spanish nationals in the group is also relevant and may indicate the construction of a project of permanence for a longer period.

7.2 Methodological approach

The methodology used in this research is qualitative in nature, as this allows for greater freedom to reformulate the objective of the study, the guiding questions, the methods and techniques for collecting and analyzing data during the process, and exploring different connotations of the quantitative data. Thus, the qualitative methodological approach in this research was based on a phenomenological study. It seeks to understand the meaning and assumptions



behind the phenomenon of international migration, emphasizing the importance that symbolic interaction and culture have for people, in particular situations, and for the understanding of the whole, while allowing us to even gain insights into the methods and techniques used.

It is worth noting that qualitative research is not concerned with numerical representation, but rather with an increased understanding of a social group, an organization, etc.¹⁰⁸

The cities where the study was developed were chosen for a greater probable concentration of immigrants from those two countries. This criterion led to the identification of São Paulo and Rio de Janeiro. We also chose to include the city of Natal due to the fact that this is one of the cities in the northeast region that welcomed more immigrants from Spain and Portugal with visas for individual investors in recent times. This strategy increased the number of interviews to a total of 49.

In all cities, we sought to establish partnerships with academic institutions or NGOs with experience in dealing with migration. In Rio de Janeiro (RJ), we had the support of the Interdisciplinary Centre for Migration Studies (*Núcleo Interdisciplinar de Estudos Migratórios*) – NIEM, at the Federal University of Rio de Janeiro – UFRJ; in São Paulo (SP), we partnered with the Scalabrinian Centre for Migration Studies (*Centro Scalabriniano de Estudos Migratórios*) – CSEM; and in Natal we had the support of the Graduate Programme in Demography – PPGDEM, from the Federal University of Rio Grande do Norte – UFRN.

We encountered unforeseen situations with both the Portuguese and the Spanish, such as a high number of refusals and little cooperation from entities related to immigrants, mainly in the cities of São Paulo and Rio de Janeiro. Several migrants cancelled planned interviews, and in most cases, despite the presentation of the Informed Consent Form (ICF), there were requests for more detailed explanations about the research. The final study includes a total of 49 respondents, out of which 24 are Portuguese and 25 are Spanish. In São Paulo, we interviewed 21 migrants; in Rio de Janeiro, 20; and in Rio Grande do Norte (RN), 8.

The methodological techniques used were structured interviews, in-depth and “snowball,”¹⁰⁹ of which the latter was used to contact respondents. The sample included both regular and irregular migrants, as well as students and workers with different levels of skill. We attempted to maintain gender equity, selecting, as much as possible, an equal number of men and women of different ages.

Before starting the interviews, the interviewers informed the respondents about the objectives of the research, the right to professional secrecy and interruption of the interviews, which are important steps to ensure the maintenance of ethical practice. Only after clarifying these guidelines and receiving informed consent and authorization did the interviews begin. These interviews were recorded in order to increase the power of evidence, preserving the original content and capturing important elements of communication, pauses for reflection and questions, thus improving the comprehension of the narrative (Schraiber: 1995).

The information contained in the recordings was subsequently summarized in standardized spreadsheets that allowed an aggregate analysis of the survey results.

¹⁰⁸ Since this study was conducted within the scope of the Itineris Project, which contemplates two more studies dealing with Brazilian immigration, one done in Portugal and another in Spain, we tried to standardize the number of interviews and collection tools in all of the surveys. Therefore, we chose to select 20 interviewees of each nationality. This proposal was discussed at the seminar for the validation of the preliminary results of the studies “Protection of the Rights of Migrants in Brazil” and “Rights of Migrants in Brazil, Spain and Portugal,” which took place in Brasilia on August 16 and 17, 2012. When selecting the respondents, we tried to follow criteria such as gender, duration of residence, education, age, and immigration status.

¹⁰⁹ In this technique, we first choose a random group of interviewees who at the end of the interview identify other elements belonging to the target population of interest. This process can be carried out in successive waves, by obtaining references or informations from the interviewees themselves.



In addition to the surveys with immigrants, we tried to contact entities that work with them, as well as consular authorities from Portugal and Spain. We prepared special itineraries for these interviews. It was not easy to establish contact with these actors, which could probably be explained by the unusual and politically sensitive nature of the issue.

7.3 Results of the research with immigrants

7.3.1 Portuguese nationals

7.3.1.1 Profile of interviewees

Table 12 presents data on the profiles of the Portuguese immigrants we interviewed for this study.

We interviewed 24 Portuguese respondents, of whom 13 are female and 11 are male; 3 reside in Natal, 11 in São Paulo and 10 in Rio de Janeiro. Out of these, 22 are immigrants and 2 are students who intend to settle in Brazil. These cannot be considered labour migrants because they are students and not employed, but they intend to stay in the country after finishing school. Significantly, they reported that they were not looking for a job, as this would put them in an irregular situation, which could jeopardize their future stay in the country if there was a complaint.

Table 13 – Portuguese immigrants interviewed

Age	Gender	City	Marital status	Year of arrival in Brazil	Legal status	Level of education
45	Female	RN	Divorced	2012	Regular	High school
59	Male	RN	Divorced	2012	Regular	High school
38	Female	RN	Married	2009	Regular	PhD
31	Female	RN	Single	2004	Regular	Master's
24	Female	SP	Single	2012	Irregular	Master's
NI	Male	SP	Single	2010	Irregular	Undergraduate
28	Female	SP	Single	2009	Irregular	Graduate
26	Male	SP	Single	2012	Regular	Master's
20	Male	SP	Single	2012	Regular	Undergraduate – incomplete
NI	Female	SP	Single	2012	Regular	Undergraduate – incomplete
26	Female	SP	Single	2012	Regular	Undergraduate
26	Male	SP	Single	2012	Regular	Master's
34	Male	SP	Divorced	2012	Irregular	Master's
NI	Female	RJ	Single	2012	Regular	Graduate
29	Male	RJ	Single	2010	Irregular	Master's
32	Female	RJ	Married	2012	Irregular	Undergraduate
38	Male	RJ	Single	2005	Regular	Master's
30	Male	RJ	Single	2004	Regular	Undergraduate
31	Male	RJ	Single	2011	Regular	Undergraduate
27	Female	RJ	Single	2011	Irregular	Master's
32	Female	RJ	Single	2010	Regular	Master's
32	Female	RJ	Single	2010	Irregular	Undergraduate
29	Male	RJ	Single	2011	Irregular	Undergraduate
26	Female	RJ	Single	2011	Irregular	Undergraduate

Source: Field survey NI – Not informed



The average age of respondents was 31.6 years and, out of the 21 who reported their age, ten were under 30 years old. Most immigrants indicated being single (19), with only two being married and three divorced. Regarding their legal situation, 14 immigrants were in a regular situation and ten were irregular.

On the level of education at the time of the interview, four reported having completed high school, while the remaining (20) reported having completed college. Out of these, 12 had some type of graduate degree. The irregular immigrants all had some type of visa that allowed them to legally be in the country, but they were irregular because they were working with a type of visa that does not allow employment. The following statement reports an immigrant's trajectory achieving permanent residence status.

"I came to Brazil in late 2005, I've been here for seven to eight years. I entered as a tourist, then I stayed for three months, and during these three months I got a job. Obviously it wasn't a regularized job. At the end of these three months, I asked for an extension of six months, which was granted. By then, I left the country, lost my passport and returned to Brazil. Eventually, I stayed for three more months, then I went to Argentina as a tourist, came back to Brazil, and after the three months I went to Chile. When I entered Chile, unfortunately there was an INTERPOL (International Criminal Police Organization – ICPO) meeting here in Brazil, so the border (procedures) were more complicated and they caught me: because I didn't have a return trip to Portugal, they gave me a month to leave the country. Since I was determined to stay in Brazil and I was already spending a lot of money with the travelling, I had to stay here illegally during this period. I stayed irregular until July 2009. That is when an amnesty law was created, I obtained a temporary visa, which gave me two years to stay here, and it's not as binding as the work visa, but allows one to work; the difference is that the work visa obliges the person to work for two years at the same company. In the case of an amnesty visa, it is not so binding. At the end of these two years, I proved that I had the means to work and keep myself here in Brazil, and so I could ask for the permanence visa, which I have already filed for a year ago, in 2011, and supposedly I should receive my permanent residence card after three or six months, but so far I haven't received anything. I have the extension for this until January 2013. There have been successive extensions till I get my card. This (delay) also happened with the temporary visa. But at the moment I am regular and I am waiting for the permanent identity card." [Male Portuguese immigrant/RJ]

7.3.1.2 The migration process

The vast majority of the respondents entered Brazil on a tourist visa and their immigration status changed during their stay in the country. Out of the 24 Portuguese respondents, 14 came on a tourist visa, six on a student visa (see testimonials below) or as exchange students; only three arrived in the country with work visas and filed for family reunification.

"I came to Brazil in 2011; I've been here for a year and a half. I entered the country with an intern visa, I had an intern scholarship for six months, but my visa was valid for one year, so I stayed for one year as an intern, then when my visa expired I left the country and came back as a tourist, and now my stay has started as a tourist. I'm irregular for working purposes." [Female Portuguese immigrant/RJ]



"I am currently regular with a work visa. I came to Brazil by chance. When I was finishing my Master's, I got the opportunity to be an international trainee and I didn't know where I could go to, so I decided to choose Brazil. My entry in the country was initially as a student, in order to do this internship, for six months." [Female Portuguese immigrant/Rio de Janeiro]

Although they entered as tourists, most immigrants (10) state that they came to the country in search of work opportunities, as mentioned in the following statements.

One of the migrants who entered Brazil with a work visa, and is currently irregular, says:

"I came here legally in 2010 with a work visa, through the Ministry of Culture, which did an exchange with Brazil, so I came here as a representative of the Portuguese State and ended up staying. I received a job offer from this office and I stayed. Initially, it was extremely easy for me because I came over with everything dealt with from Portugal. I arrived here and had my work visa, but the visa only lasted for a year and I stayed for a year and a half, the visa expired and I stayed on a tourist visa and then I changed jobs and that is when I realized it's very complicated to obtain a work visa. It needs to be a big company; a small company cannot regularize a foreigner." [Male Portuguese immigrant/RJ]

Out of the 24 respondents, 16 said they looked for information about Brazil and their rights as immigrants before making the journey, and eight reported not having previously searched for such information. Those who sought information used virtual networks, friends and acquaintances or people who had already resided in Brazil as sources, reflected in the following statements:

"I got information on the internet, I got information from acquaintances and so on, I didn't get in contact with NGOs; I just looked for information from other possible channels. And I knew about all the difficulties in legalization when I came over." [Male Portuguese immigrant/RJ]

"I was well-informed when I came over and I had already experienced living in Brazil previously; I had done an exchange with USP during my undergraduate studies." [Male Portuguese immigrant/SP]

"I only looked for information on business and work options. Not about my rights." [Female Portuguese immigrant/SP]

"I looked for information about Brazilian health (children's vaccines) and geography. I didn't look for information about my rights as an immigrant." [Male Portuguese immigrant /Natal]

"I had some information about my rights because I used to date a Brazilian guy." [Female Portuguese immigrant/SP]

"I looked for more information about living costs. I knew the rights were very complicated. I have friends that are here illegally and they have always told me that the rights were very complicated. Since the issue with my documents was being dealt with by the company, my main preoccupation was the cost of living." [Male Portuguese immigrant/SP]



"I didn't obtain any information, but I listened to advice. I didn't have any problems. But I was told that if I had any, I should look for the Portuguese embassy." [Male Portuguese immigrant/SP]

From a question on migratory experience, we found that 15 out of the 24 respondents had migrated to other countries before arriving in Brazil. In this group, some had previously lived in two or even four countries. The statements below illustrate the migratory experience of some respondents:

"I lived in Berlin and Barcelona. I lived in Berlin for a year and two months and in Barcelona for six months." [Male Portuguese immigrant/Rio de Janeiro]

"I lived in Germany for a year and I lived in Spain for six years." [Female Portuguese immigrant/Rio de Janeiro]

"I lived in Ireland for about a year and a half, working... I always left Portugal by option. Initially, I spent some time in India, went back to Portugal, then did a Master's in Scotland. I didn't like the countries from Northern Europe and I thought it would be interesting to try South America, and Brazil would be easier for me to adapt and get a job, and the language would be another advantage." [Male Portuguese immigrant/RJ]

"I have lived in other European countries such as Spain, UK and the places where I lived for the longest period were Mozambique and South Africa. In Africa I stayed for three months, in Poland I spent a month. But these were all fixed-duration projects, I never went there to live permanently; Brazil is the only place I moved to in order to live and try a better life." [Female Portuguese immigrant/RJ]

7.3.1.3 Employment

The survey showed that, out of the 24 respondents, 22 Portuguese immigrants (91.7%) were working at the time and two (8.3%) were not because they had scholarships from USP (University of São Paulo) as students.

Out of the 22 immigrants who reported working, seven (31.8%) found their first job through friends or acquaintances living in Brazil. Other means cited for finding a first job were institutional exchange programmes between Portugal and Brazil (4), and active pursuit of a job by circulating resumes (4). Only one respondent came to Brazil employed by a Portuguese company. Twenty three immigrants reported not having used the SINE (National Employment System, *Sistema Nacional de Emprego*) for seeking their first job and said they did not know about this service. Only one reported using the services provided by SINE.

The research showed that 13 Portuguese immigrants (54.0%) worked as autonomous workers without an official employment, nine (37.5%) worked under formal contracts, all with professional qualification, and two (8.3%) reported being students. The professions/occupations declared were: architect (7), theater producer (2), graphic designer (2), freelance journalist (1), social educator who provided service to an NGO in Rio de Janeiro (1), realtor (1), entrepreneur (2), and university professor (1). Within this group, three worked as consultants (environmental and social sciences), two worked as marketing managers and two were students. The interviews revealed that labour relations were not always formalized and there was no specific pattern for hiring these migrants, which favoured situations of labour instability, as mentioned by an immigrant:



"I have had about seven jobs, there were certain jobs in which I would go and make partnerships with people in order to do specific tasks. Since these jobs were temporary jobs in small offices, whenever the tasks were over, I would become unemployed. But most of the time I used to work with big companies. The big companies also had informal work. In architecture, most of the jobs are informal. This is a characteristic of the profession and this is something common in Portugal, too." [Male Portuguese immigrant/RJ]

Almost all respondents indicated that the area in which they worked was consistent with their academic formation and only two cases were divergent in this respect.

Despite the informality in the employment relationship, the majority (17, or 70.8%) reported being satisfied with their wage and working conditions. Among these, nine (52.9%) were females and eight (47.1%) were males. Those who declared not being satisfied (5, or 20.8%) trace this dissatisfaction to low pay or the inconsistency with their professional qualification; among these, three (60.0%) were males and two (40.0%) were females. The high level of satisfaction with work could be correlated to the fact that the respondents also rate their relationships with Brazilian colleagues and employers positively.

"I have always had a good relationship with bosses and colleagues here in Brazil; the work environment is always good." [Male Portuguese immigrant/RJ]

"During my Master's, I became interested in the subject of energy. That is why I got a 'lato sensu' post-graduate degree in Environmental Management at Poli; during the course, I built up a network, and one of my colleagues mentioned an opening at an energy company, so I sent my resume and was hired." [Female Portuguese immigrant/SP]

Significantly, 17 of the 24 Portuguese respondents (70.8%) said they did not notice a difference in treatment between Brazilian nationals and foreigners. As for gender discrimination, only two respondents (one female and one male) perceived chauvinistic attitudes in the workplace, especially in the construction sector.

Nine of the respondents (52.9%) reported noticing a difference in treatment between regular and irregular immigrants. The differences they mentioned included higher instability in employment for irregular immigrants and little interest on the part of the companies to regularize the situation of their foreign employees due to bureaucracy. Between skilled and unskilled immigrants, nine (52.9%) reported noticing a difference in treatment, but as positive differentiation because these respondents are more qualified than the Brazilian workers. Others stated they did not notice a differentiation.

With reference to occupational mobility, it is notable that the majority of immigrants, 19 (79.2%), first came to Brazil in 2010 as shown in Table 12. Therefore, by the time of the survey, they had low job mobility due to their short duration of residence in the country. On the issue of living costs and the ability to save money in Brazil, the immigrants we interviewed reported that living costs were high but half of them were able to save some money. Those who failed to save money claimed that their income was only sufficient to survive in Brazil, as reflected in the following statement:

"My monthly income is sufficient, and I can save some. The goal for saving money is to have a normal life like everybody else, one in which I can buy a house. I like travelling, I like having money for that, but basically this is all: being able to have a house, a relatively comfortable life, and once I start a family, I won't have problems providing for it." [Male Portuguese immigrant/RJ]



7.3.1.4 Housing

The information we gathered indicates that the respondents preferred renting instead of purchasing a residence, because of their short duration of stay in Brazil. To secure rental contracts, they had support from friends, relatives and employers who presented themselves as guarantors, as reported in the testimonies following this paragraph. The respondents complained about bureaucracy, particularly in relation to the demand for guarantors. Upon arriving in Brazil, the immigrants' first accommodations, according to their reports, were: hotels (6); rented rooms (4); rented apartments/houses (5); a place provided by the employer (1); a friend's house (3). Five respondents did not report the type of their first accommodation.

"I choose this apartment for its good location. The process was simple. I registered online." [Female Portuguese immigrant/SP]

"The process was simple. The apartment where I live is rented under my ex-boyfriend's brother's name." [Female Portuguese immigrant/SP]

"My friend is the guarantor for renting the house I currently live in." [Female Portuguese immigrant/SP]

A question on housing trajectory in Brazil showed that most immigrants moved only two or three times. This could be explained due to their short period of residence. Three respondents reported difficulties in acquiring formal rental agreements, so they had to move often, living in rooms or apartments rented for short periods. This reality is seen more frequently in the city of Rio de Janeiro, as reported in the following statements.

"My first residence was at Arpoador; however, I have had nine other residences in addition to this first one. This is because of the difficulty in getting a guarantee for a place here. The first house was a temporary rental, so the price was really high, and it ended up that I moved to Leme, lived in a room that belonged to a girl who owns an apartment and rents rooms. Then she had to leave and I lost the place. Then I was living like this and I was never able to rent a house under my name (...) without a visa, and also people want guarantors and stuff like that. Fortunately, now I have a place, my boss is my guarantor and I am currently living in Botafogo. This house now is rented with a contract." [Male Portuguese immigrant/RJ]

"Initially I stayed with some distant relatives; however, I met through a few acquaintances some people that wanted to share an apartment, and that is how it happened successively: I would meet people and share apartments. I could never have a contract under my name and this was one of the reasons. It is different now; I have a rental agreement under my name. Now that I am legal and I am working legally in this company, I have a signed document and that is why I stopped having so many problems like I did, right? Anyway, it is a very complicated process. Most people that rent places ask for many guarantors sometimes, some ask for a rent insurance, in which one also loses a lot of money. I was lucky to rent this place where they only asked me for a deposit and now for me it is easier, and I live there with my girlfriend. I live downtown, at Castelo." [Male Portuguese immigrant/RJ]



7.3.1.5 Access to education

Among the Portuguese respondents, 14 (58.3%) had some experience of the education system in Brazil and 10 (40.7%) had none. Most migrants do not have children and therefore did not have any experience in the field of early childhood education. Among those who did opt for some type of educational activity, it is worth noting that in most cases these resulted from exchange programmes in public universities (USP and UFRJ) and, in one case, in a private institution (Senac).

One problem experienced by the immigrants in education was the validation of diplomas from courses taken abroad, as reported in the following account:

"I am currently trying to validate my diploma, because I am qualified to be a technical manager in Portugal, but not here in Brazil. I can work as a pharmacist, but for being a technical manager I need my diploma to be validated first. Currently, I am dealing with that at UFRJ. I already turned in all the documentation and now I'm going to take two classes." [Female Portuguese immigrant/RJ]

Migrants who had experienced Brazilian universities reported that teaching conditions are better than in Portugal and therefore evaluated their experience as positive. They even stated that "students from USP are very intelligent and the relationships with the professors are close and informal." The statement below illustrates these affirmations:

"As regards the University, I consider it was worthwhile to be at USP, because the teaching there is more practical than what we get in Portugal, the learning conditions are better and the relationship between professors and students is close, which is comforting." [Male Portuguese immigrant/SP]

"It is worth it to go to USP: their teaching is practical and the learning conditions are better, especially when we go on field trips." (Male Portuguese immigrant/SP)

An immigrant mentioned having enrolled in a private school, but never attended classes, stating that he did it only to obtain a student visa.

With reference to language, only one immigrant reported noticing difficulty by Brazilians in understanding his Portuguese dialect.

7.3.1.6 Access to healthcare

Sixteen (66.7%) immigrants had access to the healthcare system, of whom 6 (25%) used the public system (5 females and 1 male), 9 (37.5%) opted for the services offered by the private sector (3 females and 6 males) and 1 (4.1%) did not identify the type of healthcare used. Eight (33.3%) had not used either of the two systems (4 males and 4 females). Those who had access to the public health system claimed to have been treated well and without any cost, as reported in the following statements:

"I have already been to a... what is it called... UPA (emergency health centres, 'unidades de pronto atendimento'), for conjunctivitis, and in Babilonia ('Morro da Babilonia'), I went to the health centre once when I had a stomach ache (...). I was treated very well and I did not feel any difference in treatment for being a foreigner. Nothing at all." [Female Portuguese immigrant/RJ]



*"I used the health system. I was treated well and the services were fast."
[Male Portuguese immigrant /SP]*

"(...) Many times. I used the public Unified Health System ('Sistema Único de Saúde') as well as the private one. I was treated very well." [Male Portuguese immigrant/Natal]

Out of the immigrants who had access to some type of healthcare, 13 (81.2%) affirmed not noticing any difference in treatment for being foreigners. Out of these, 8 (61.5%) were regular and 5 (38.5%) were irregular.

Immigrants who worked under signed contracts mentioned using the health insurance offered by the company for which they worked. Others reported having used health services offered by the university.

The most common reasons cited for seeking health services were conjunctivitis, gastrointestinal problems, viral infections, fractures/sprains resulting from accidents, cuts, dental treatment and surgery. The following statements confirm some of the reasons cited by respondents:

"I have already used health insurance, the University Hospital of USP and the 'Hospital das Clínicas'. I had a foot surgery, I was seen at the AACD ('Associação de Assistência à Criança Deficiente', Association for the Assistance of Disabled Children). In general, it was always good." [Female Portuguese immigrant/SP]

"I went to the Albert Einstein Hospital.¹¹⁰ I had a viral infection. It was really good. There is a special ward at this hospital for treating foreigners. This is better, because it's faster, but there is a lot more bureaucracy, too." [Male Portuguese immigrant /SP]

7.3.1.7 Access to social benefits and facilities

When asked whether they looked for a Brazilian agency to find out about their rights as immigrants in Brazil, only eight Portuguese respondents (33.3%) said yes, and the rest (16) did not seek information about their rights. Among those who sought to know about their rights, one said he obtained this information from the Embassy of Portugal; two went to the Consulate of Portugal; two went to the Federal Police Department, accompanied by an attorney; one went to a company that deals with the regularization of foreigners in Brazil, and the remaining obtained information from websites.

None of the respondents sought the help of immigrant associations for information about their rights, claiming to have obtained these via social networks only, where they contacted their compatriots. The testimony below is from an immigrant interviewed in Rio de Janeiro and it illustrates the role of social networks in providing information about the rights of migrants:

"I consulted the website of the Ministry of Foreign Affairs to know a little about this issue of rights. Actually, I already knew some, but there was no information that I didn't know about, because when we got here we met

¹¹⁰ The Albert Einstein Hospital has a sector for the treatment of foreigners through both the public and the private health systems, and it is qualified as a hospital of excellence by the Ministry of Health. This is an entity accredited to develop projects to support the development of the Unified Health System (Sistema Único de Saúde) and, as such, it is worthy of the Certificate of Social Assistance Beneficent Entity (Certificado de Entidade Beneficente de Assistência Social).



other people and people go around spreading news, such as what are our rights, what we should know and whether we can go to a public hospital.” [Female Portuguese immigrant/ RJ]

Only eight Portuguese immigrants reported being minimally aware of their rights, only what was necessary to be regular or to find formal employment. They mentioned that there are inconsistencies between the information provided by Consulates and that available on social networks, as seen in the following statements.

“There is an information gap: the internet is not explicit and the Consulate cannot clarify all of our questions.” [Male Portuguese immigrant/SP]

“I have had access to a lot of different information and I don't know who I can trust.” [Male Portuguese immigrant /RJ]

Out of the 24 respondents, 21 (87.5%) said they did not know the rights to which they were entitled and only 3 (12.5%) said they did. The latter group reported knowing the rights related to work above all others. Only 5 (20.5%) immigrants were enrolled in social security, which leads us to question the regularity of their employment contracts. Two of the respondents said they had received some type of grant. One of them reported having drawn the FGTS (Length-of-service Guarantee Fund, *Fundo de Garantia por Tempo de Serviço*), which in reality is not a subsidy, and another had earned a research scholarship through USP to conduct fieldwork. Many of those who were regular either did not enroll in social security or did not make use of their enrolment.

Only six of the respondents (25%) reported knowing that contributions to social security in Brazil are valid for Portugal. Even then, they demonstrated ignorance of details about the procedure to access this right. The following statement illustrates this observation:

“In order for the contributions to social security to be valid in Portugal, I would have to go through a process and after this I could do a procedure. I know there is this possibility. I didn't deal with this process yet because I also don't know how things will be and even in Portugal things are complicated financially, so I also don't know what would happen to my money if I went back there for any chance. That is why I decided not to take action at this point.” [Male Portuguese immigrant/ RJ]

In relation to social services offered by Brazil, eight (33.3%) Portuguese immigrants said they perceived differences between the treatment of nationals and foreigners, but they did not clarify what type of services they availed of. The others were neither aware nor interested in Brazilian social policies, as observed in the following statements:

“I prefer not to count on Brazilian social policies, because I am going to be here for a short period of time.” [Male Portuguese immigrant/ RJ]

“I think there aren't a lot of social policies for Brazilians either.” [Male Portuguese immigrant /SP]

“I work with social policies and I never felt there was discrimination by the government. However, there are some policies, such as the one for housing and the ‘Programa Bolsa Família’ (Family Grant) that I have never heard of a foreigner having access to.” [Male Portuguese immigrant/ RJ]

With regard to political rights, only seven (29.2%) respondents affirmed having some knowledge, but did not give us any more details on the subject.



7.3.1.8 The impact of migration on the family

This study shows that only eight respondents said they had relatives in Brazil (uncles and cousins), but were not very close to them. Some began building relationships only after their arrival in Brazil, as can be seen in the following statement:

"I have distant relatives living in Brazil, but I didn't know them before I came to Brazil. They are really distant, they're my grandmother's cousins. We keep contact, they are very pleasant people, and it's as if they were friends. If I needed it, I would have their support." [Male Portuguese immigrant/RJ]

The remaining respondents said they did not have family in Brazil. Only one immigrant reported being financially responsible for family members who stayed in Portugal.

With regard to financial dependence on relatives in Portugal, the two students who were interviewed said that they are supported by their Portuguese families. One immigrant, despite working in Brazil, reported receiving occasional help from his family in Portugal.

With regard to the impact of the migration project on the family, we found that there were no relevant cases: only two (8.3%) immigrants said they had undergone marital separations and one of them experienced the temporary immigration of her companion to Spain, as shown in the testimony below:

"My husband is in Madrid and my brother is in Angola. My grandparents and uncles are in Portugal. (...) There were changes in the family, but I wasn't shaken up by that. My husband's move to Madrid was a decision we made together. My intention was to come here for three months as a volunteer... but my goal was to get a job here and we both decided I would stay here until he could come. So this did not affect us because it was something we had thought about before, and I'm okay because I got my job here, which is what I wanted." (Female Portuguese immigrant/RJ)

On the issue of sociability, it was clear that nine immigrants had relationships with people from Portugal, Brazil as well as other nationalities, six had relationships mostly with Brazilians, five had relationships with Brazilians and Portuguese, and only three said they had relationships mostly with Portuguese people. The statement below illustrates the case of an immigrant who was friends with other immigrants of various nationalities.

"I have friends that are Jewish, Spanish and Argentinian; only one is Portuguese and there are some who are foreigners from various countries and Brazilians, too. These friends I met through neighbours from Babilonia ('Morro da Babilonia'), from courses I took, from my previous job at the 'Parada do Lucas'. I can't say I have friends at work yet because I have been here for a very short period of time." [Female Portuguese immigrant/ RJ]

Due to the fact that they have had little time residing in Brazil, some immigrants reported that they were still expanding their relationships with Brazilians. They also reported that the locations and environments that favoured the formation of new friendships were their neighbourhoods, cafes, restaurants, and nightclubs, but they emphasized that the workplace and social networks were the environments that favoured developing friendships the most.



In their free time, a portion of the immigrants said they participated in activities for resting and relaxation at home or nearby, mostly in free events, as illustrated in the following statement:

"I spend weekends with friends, doing sports, hiking: I also go out a little, visit exhibitions, go to samba concerts, a little of the cultural part of Rio, and there are always free events." [Female Portuguese immigrant/RJ]

Some enjoy participating in cultural activities in the city along with friends, visiting beaches and travelling, as seen in the following statement:

"I go to the beach with my friends, go out at night. I don't do anything special, I don't just work. I enjoy my weekends." [Male Portuguese immigrant/RJ]

7.3.1.9 Evaluation of the migration process

The main difficulties pointed out by the Portuguese respondents were opening a bank account, obtaining a visa, the rental contract, legalization/regularization of the immigration status, and validating diplomas. They also added, possibly in comparison to Europe, the difficulties of internal dislocation in the country and in some cities, especially in São Paulo.

The following testimony describes the difficulties pointed out by a Portuguese immigrant:

"My main difficulties while I wasn't regular were that I couldn't have a bank account; I didn't have the CPF ('cadastro de pessoa física', natural persons register), none of those things. After that, even when I was regular, in the beginning, the process wasn't easy because, in Brazil, public and private bodies do not know the legal documentation very well. Initially, before they give us a real card, they give us a piece of paper with our picture on it and then they validate the card, but neither the banks nor any other institution recognize these documents, which makes things really hard. So from the moment when I had the card, things got easier." [Male Portuguese immigrant/RJ]

An immigrant states that housing and the language were the greatest difficulties, as mentioned in the following statement:

"Housing was the greatest difficulty. The language is different from what Portuguese people usually think they will find. The state is very different, the mentality is very different. In relation to responsibilities, for example, people's laxity towards it can be dangerous. The company's bureaucratic process is individual and complex; they demand a lot of formalities. In addition, living here is very expensive, distances are great and expensive, and there is a lot of traffic." [Male Portuguese immigrant/SP]

Concerning the language, some migrants reported that Brazilians had more trouble understanding the Portuguese from Portugal, mainly with written language, as they considered the form of writing as linguistically inaccurate.

Some respondents mentioned that the difficulties they faced were because of their being foreigners, problems common to any other country. These included making friends, the structure of the city: nothing specific to Brazil. It is worth noting that immigrants complained of the services rendered in Brazil, especially with regard to dissemination and availability of information. They were also concerned about the social and educational inequality among Brazilians.



There were also complaints regarding the service provided by the Federal Police Department, especially in Natal/RN. In this city, the respondents strongly emphasized the need to better prepare this department to deal with immigrants.

In times of difficulty, respondents revealed that they resorted to their social networks, including friends, romantic partners, co-workers and employers in order to solve their problems.

In response to what the Brazilian government could do to help immigrants, the most frequently mentioned items were related to improving the level of information in the Brazilian and Portuguese Consulates, in the Department of Federal Police and the reduction of bureaucracy in the provision of services, especially for opening bank accounts, for regularization of immigration status and the granting of visas to those who have employment contracts, as well as the need to create ways to facilitate the validation of international diplomas. The following statements list some of these difficulties:

“One thing that would certainly facilitate the process is to have some sort of easier way to recognize our diploma (Architecture). This would be 100% beneficial, so that we could compete with Brazilians at the same level.” [Male Portuguese immigrant/RJ]

“Brazil is not facilitating the lives of the professionals that the country needs, such as engineers, for example. It is extremely bureaucratic and complicated. The country is not prepared to receive this migration wave of Portuguese nationals. They need to provide more information at the Consulates. Companies give up hiring Portuguese people and other foreigners because the process is extremely bureaucratic and hard to follow. They need to demystify this idea and face the process. Banks are very bureaucratic when it comes to opening an account, which creates difficulties to get paid for the work you do. The taxes for withdrawing money from a Portuguese bank are very high. I was robbed at Maresias and I was very frustrated by the way the police acted. I consider the police unprepared for their job.” [Male Portuguese immigrant/SP]

Another demand that appeared with great frequency in the statements relates to increasing the availability of information via the internet.

In response to with a question on what the Portuguese government could do to improve the situation of immigrants, respondents indicated that, due to the current unfavourable economic situation in the country, the government would not be able to fully meet the demands of its citizens that are living abroad, as mentioned in the following statement.

“At this moment the Portuguese government isn’t even helping those who are living there, so they won’t be able to help those who left. However, there should be a more open partnership with Brazil.” [Male Portuguese immigrant/SP]

An immigrant criticized the information provided by the Brazilian and Portuguese Consulates:

“(…) the information provided by the Brazilian and Portuguese Consulates should be consistent. Their protocols are not good. The Portuguese Consulate has a very small delegation and their help is not very concrete.” [Male Portuguese immigrant/Natal]



7.3.2 Spanish nationals

7.3.2.1 Profiles of the interviewees

Table 14 presents data that identifies the profiles of the Spanish immigrants we interviewed for this study.

We interviewed 25 Spanish individuals, 10 females and 15 males, of whom 4 reside in Natal, 11 in São Paulo and 10 in Rio de Janeiro. Of the 25 respondents, 14 (56.0%) were single, only 9 (36.0%) were married or in a stable relationship and 2 (8.0%) were divorced.

Table 14 – Spanish immigrants interviewed

Age	Gender	City	Marital status	Year of arrival in Brazil	Legal status	Level of education
41	Male	RN	Married	2011	Regular	Undergraduate
34	Male	RN	Single	2011	Regular	Undergraduate
42	Male	RN	Divorced	2012	Regular	Middle school
63	Male	RN	Married	2010	Regular	High school
26	Female	SP	Single	2012	Regular	Master's
38	Male	SP	Single	2010	Regular	Graduate
37	Male	SP	Single	2011	Regular	Undergraduate
28	Female	SP	Stable union	2012	Regular	Master's
34	Female	SP	Married	2011	Regular	Undergraduate
62	Male	SP	Married	2012	Regular	Undergraduate
27	Male	SP	Divorced	2011	Irregular	Graduate
26	Female	SP	Single	2011	Irregular	Undergraduate
34	Female	SP	Single	2012	Regular	Undergraduate
27	Male	SP	Married	2011	Regular	Master's
52	Male	SP	Single	2002	Regular	Undergraduate
29	Female	RJ	Single	2011	Regular	Undergraduate
32	Male	RJ	Single	2011	Regular	Undergraduate
28	Female	RJ	Stable union	2011	Regular	Undergraduate
33	Male	RJ	Single	2012	Regular	Master's
29	Female	RJ	Single	2011	Irregular	Undergraduate
29	Female	RJ	Single	2011	Irregular	Undergraduate
29	Male	RJ	Married	2011	Irregular	Undergraduate
32	Male	RJ	Single	2011	Irregular	Master's
29	Female	RJ	Married	2011	Irregular	Undergraduate
30	Male	RJ	Single	2011	Regular	Undergraduate

Source: Field research

The mean age of the interviewees was 33.6 years, and 11 of them (44.0%) were under 30 years old when they migrated.

About their legal status, it was observed that 18 (72.0%) immigrants were regular and seven were irregular; out of these, four were women. The irregular immigrants, for instance the Portuguese, all had a visa that allowed them to be in the country but they were irregular due to the fact they were employed without legal permission. Out of the respondents who declared being in a regular situation, three were in the process of searching for employment on a tourist visa and all factors indicate that they would be irregular when they began working, as mentioned by the respondents below:



"I was at a professional dead-end in Spain, so I got a job opportunity in Brazil." [Male Spanish immigrant/SP]

"I'm not working. I cannot work because I don't have a visa. I'm searching for a legal work contract. I want to work to regularize my situation. I accept any type of work, anywhere in Brazil, because my goal is to establish myself in the country, legally." [Male Spanish immigrant/SP]

"I was invited by my cousin to come over and work at his company here." [Male Spanish immigrant/SP]

"I have had work opportunities; I got a promotion inside the company where I work in Spain. I didn't change companies." [Female Spanish immigrant/SP]

"Due to the financial crisis in Europe and because I like working outside of Spain. I have already worked in France and I saw an opportunity in Brazil." [Male Spanish immigrant/Natal]

As for the level of education, only two respondents did not have higher education, but the remaining 23 (92.0%) did. Out of these, seven had some type of graduate degree.

7.3.2.2 The migration process

Most of the Spanish respondents entered the country on a tourist visa and changed their status after they were already in Brazil. 14 (56.0%) migrated for employment, 6 (24.0%) were driven by a romantic relationship with someone in Brazil, 3 (12.0%) reported having migrated simply because they liked Brazil and 2 (8.0%) entered the country on a visa for family reunification, accompanying their husbands.

The following testimonies reflect the migration process experienced by some Spanish immigrants:

"I entered Brazil on a student visa, I searched a lot for information about how to change my student visa into a work visa, but it's very hard, I'd have to find a big company that would do it all for me. Then, since it didn't work out, and we really tried, it ended up with a stable relationship. I got a job at a company in Brasilia owned by my ex-boyfriend, but he sent all the documentation and they didn't accept it. So the only solution we had was to get into a stable union. Back then, a stable union would give you rights, but now, you cannot work until you get the RNE (National Foreigner Registry, 'Registro Nacional de Estrangeiros'), but I still don't have this, it's all in Brasilia, and I've been waiting since August 2011. I'm waiting." [Female Spanish immigrant/RJ]

"I'm regular now, but I was irregular before. I came in November 2011. I arrived in Brazil as a tourist and then I got my work visa." [Female Spanish immigrant/RJ]

"I am regular. I came to Brazil in November 2011, I arrived on a tourist visa but then I got the work visa." [Male Spanish immigrant/RJ]

It appears that, despite entering on a tourist visa (20 immigrants), most reported coming in search of job opportunities and two pointed to the economic crisis in Europe as the main reason for migration, as demonstrated in the following statement:



"I'm irregular for employment, but I am regular in Brazil with a student visa. I arrived in Brazil in October 2011, on a tourist visa, but before the six months were up I got the student visa and re-entered the country on it, which is valid for a year. This period will be up in February 2013." [Female Spanish immigrant/RJ]

Out of all interviewees, 14 (56.0%) said they looked for information about Brazil and their rights before migrating. They obtained this information mainly from the internet and people they knew who were in Brazil or who had already lived in the country, as reported in the following testimonies:

"I have an uncle who has lived in Brazil for many years and now lives in Spain. He answered all of my questions." [Male Spanish immigrant/SP]

"I was in a relationship with a Brazilian woman, I knew the Spanish legislation and I knew Brazil adopts the principle of reciprocity. Other than that, I searched for information online through the Ministry of Justice's website. I also hired a consultant to verify the possibility of internationalizing the architecture office I have in Valencia and she indicated Brazil as a good market. Finally, I had been dating a Brazilian woman for seven years, whenever I was on vacation I would come to Brazil. I already knew different cities. Therefore, I knew my rights and other information relatively well." [Male Spanish immigrant/SP]

"I searched for information on the obligations for the visa and ways to stay longer in Brazil. I didn't look for any information about my rights in relation to healthcare or education." [Male Spanish immigrant/SP]

"I didn't search a lot, but I knew about it minimally. I tried to get information from the website of the General Consulate of Brazil in Madrid and the Ministry of Labour." [Female Spanish immigrant/SP]

"I tried to get information here in Brazil, we tried to get information in Spain, but no one had an answer. People in Spain would say, 'No, you need to ask the Consulate of Brazil', but the Consulate of Brazil is only responsible for helping Brazilian citizens there, not the Spanish ones. And it's the same here, you come here, you go to the Consulate of Spain, they don't have an answer for you because they only help foreigners who want to go to Spain, so the Spanish citizens are left without any information. All we know is thanks to other people who have already done it and told us, not because we found answers here or there." [Female Spanish immigrant/RJ]

"I went to the Consulate, I also went to the Brazilian Consulate in Porto, because it was closer for me to go to Portugal than to Madrid; through different websites, also through Spanish and Brazilian lawyers." [Female Spanish immigrant/RJ]

"I looked for information after I arrived in Brazil to find out how to become regular, but I was only able to do it through the internet, because it is impossible to contact the Brazilian Consulate in Madrid over the phone, they don't answer it. So, only searching on the internet about what they have to offer, how to be regular with a work visa, a student visa; these was what I researched." [Female Spanish immigrant/RJ]



In the item related to the migratory experience, we found that 16 (64.0%) respondents had migrated to other countries before arriving in Brazil; among them, several have previously lived in two or even up to five different countries.

7.3.2.3 Employment

Out of the 25 Spanish immigrants we interviewed, 20 (80.0%) were working at the time of the interview, 4 (16.0%) did not work and 1 (4.0%) held a scholarship from USP (University of São Paulo) and was therefore a student.

Of the 20 immigrants who were working, seven (35.0%) found their first jobs through friends or acquaintances, four (20.0%) came to Brazil already hired by a Spanish company, three (15.0%) had registered in job search websites, two (10.0%) conducted an active search by delivering resumes, one (5.0%) came over with her husband and replied to a job advertisement after arriving in Brazil, and the scholarship holder came over as a researcher affiliated with the University. Three interviewees (15.0%) did not explain how they got their first jobs.

The following testimonies describe the immigrants' first jobs in Brazil:

"I've only had one job in Brazil; I got it through a Spanish friend because she was working at an architecture office situated next to the office I currently work at. So, my friend's boss is married to an architect, and she was looking for staff, so she told me. I did the interview, got approved and began working. It was the company I work for that asked the government to let me stay on a work visa. They helped me with all the documentation, so I had to go to Spain, stay there for four months till everything was ready." [Female Spanish immigrant/RJ]

"I stayed for six months as a tourist looking for a job, doing interviews, but it's very hard for a Brazilian company to hire someone without knowing the person. So, a friend of my father's who I knew in Rio helped me send my resume to an IT company, after the Carnival I did an interview and the guy decided to hire me, but he said that since I didn't have all the documentation, he wasn't going to let me work. So I began all the procedures to get my visa and start working. The IT company requested the documentation and I had to go get it." [Male Spanish immigrant/RJ]

"I worked at a company in Barcelona, and when they opened an office in Brazil, they hired me." [Female Spanish immigrant/SP]

"I got my job through the Catho website."¹¹¹ [Male Spanish immigrant/SP]

Among the Spanish migrants who said they were working, 13 (65.0%) reported having a formal employment contract and 7 (35.0%) worked autonomously, in other words without a formal employment. 19 immigrants said their work corresponded to their professional qualification. Out of those who declared being employed at the time of the survey, seven worked as architects, three as engineers, two as businessmen, two as university professors, one worked with public relations, two as experts in the field of information technology, two as business managers, one as a communicator and designer. Besides these, three were seeking employment and one was a scholar/researcher. Notably, although they are working without employment contracts, the immigrants said they preferred to work with a formal contract.

¹¹¹ Catho is an online job advertisement company.



It is important to emphasize one immigrant's statement that the companies did not have any information about hiring foreigners and saw the procedures for granting the work permit and visa as a problem.

Most respondents said they were satisfied with the wage and working conditions, but expressed a desire to pursue other opportunities. Of those who indicated they were not satisfied, their dissatisfaction was associated with low wages or inadequacy in comparison to their vocational qualification (see statement below). The high level of job satisfaction may be related to the fact that respondents also positively rated their relationships with colleagues and employers. Only three Spanish respondents said they related more to other foreigners at work, mostly those of Spanish nationality.

"My work is related to my qualifications; it's because I'm working in an architectural office, the problem is that I cannot work as an architect because my diploma has not been approved yet. So I cannot sign (official documents) and I don't have the same rights as a Brazilian architect. And the problem is that we do research to try and validate our titles, but it's impossible, because the first thing you need is to have a permanent visa, and the permanent visa is impossible to get if you don't have a title. So it doesn't work." [Female Spanish immigrant/RJ]

Unlike the Portuguese, the majority of the respondents (15) stated that they perceived a difference in treatment between nationals and foreigners. Ten did not perceive this difference. Three noticed a positive differentiation, stating that, "Brazilians love foreigners and being European helps." With regard to gender discrimination, the opinions were diverse: nine immigrants perceived differences in treatment between men and women in the workplace; out of these, four males perceived chauvinistic attitudes in the workplace, especially in the construction sector, but a female immigrant claimed that women were more respected in Brazil than in Europe. The other (15) immigrants of both sexes reported not perceiving gender discrimination in the workplace. An immigrant reported noticing a difference in treatment on the basis of salary.

"I know because I ask my comrades and I get a lot less than they do. But since we come from a critical situation in Spain, we cannot do anything either." [Female Spanish immigrant/RJ]

Like the Portuguese, nine of the respondents affirmed noticing a difference between the way regular and irregular immigrants are treated. Some said that being regular offered more peace of mind.

On the subject of noticing a difference between skilled and non-skilled immigrants, nine affirmed noticing this difference, though they indicated a positive differentiation for being more qualified than the Brazilian workers and for being Europeans.

"The European architects are respected worldwide and I enjoy this advantage." [Male Spanish immigrant/RJ]

Regarding occupational mobility, it is significant that, as stated in the item about the migratory process, most immigrants came to Brazil starting in 2011 and therefore had low job mobility due to their short time in the country. Four immigrants are an exception to this, having changed jobs three to five times because they are service providers. Concerning the costs of living and savings in Brazil, the Spanish immigrants we interviewed reported that the cost of living was high, especially in São Paulo, but 15 (60.0%) of them were able to save some money; the remaining were not. Those who failed to save money argued that their incomes were only sufficient to survive in Brazil.



7.3.2.4 Housing

The survey reveals that, considering the short time of residence in Brazil, the Spanish immigrants we interviewed chose to rent a place instead of thinking about possible ownership. The support of friends, relatives and employers, presenting themselves as guarantors or helping to find accommodation, was described as critical in being able to rent a residence. In São Paulo, respondents mentioned the repeated use of websites to search for rooms to rent.

In response to the question on housing trajectory in Brazil, we noted that seven immigrants had only one residence since their arrival, seven had two, four had three and one had more than six. Those who had more than three residences mostly shared apartments with other people, for which they found these partners through the internet.

The following reports show the experience of Spanish immigrants with the issue of housing:

"During the first week we stayed at the house of a couple we knew back in Spain. Then this couple introduced us to a girl who was living in Santa Teresa and had a free room, so we have been living there till now. We never had any problems because she is Spanish, so there were no problems. It's true that we tried to rent an apartment before going to her place, because everyone said we needed documentation that we didn't have, since we were just tourists. So it was very hard. And also the price for foreigners is more expensive, it's impossible." [Female Spanish immigrant/RJ]

"I stayed with a family I met when I was living with my boyfriend, so when they found out I was coming to Rio they told me to go to their place. So I stayed there for six months. Then I stayed at Ilha do Governador, and later I went to Rio Comprido, but this also worked out with the help from other people I knew who were already living here." [Female Spanish immigrant/RJ]

"Renting a place was very easy because I am living with a Spanish friend who is married to a Brazilian, so the legal process was very easy for him. The contract is not under my name." [Male Spanish immigrant/RJ]

"I used to live in a rented room, in a house with people from different nationalities. After two months we moved to an apartment in which we are still living. We met a Brazilian friend who was living there and (when) he left to live in London, we spoke to the owner to see if he would rent it to us. It was a temporary contract, for three months. A short-term contract that is a lot more expensive." [Female Spanish immigrant/RJ]

7.3.2.5 Access to education

Of the 25 Spanish immigrants, 11 (44.0%) reported having experienced the education sector in Brazil while 14 (56.0%) did not. Experiences in education were mostly first-hand; only one respondent had this experience through the education of his children. Most of those who had access to education mentioned having sought private institutions (8), while three attended public schools and were treated well. They reported that Brazilian schools are "cheaper" than Spanish ones.

One immigrant reported that the academic system was the opposite to that of Spain: he believed that teaching institutions in Spain did not take into account practical aspects in



teaching and put too much emphasis on the theoretical part, while the Brazilian system featured more emphasis on the practical aspect.

As in the case of the Portuguese, an immigrant mentioned having enrolled in an educational institution in order to obtain a student visa, and another did so in order to remain in Brazil.

On the issue of language, the Spanish immigrants said they did not have any difficulties in socializing, but a large part of them took a Portuguese course to facilitate their communication with Brazilians.

The following reports show the experiences of some Spanish immigrants in the educational sector:

"I took a private informatics course. The company paid for it. I didn't feel any difference in treatment for being a foreigner." [Male Spanish immigrant/RJ]

"I attended UFRJ. I didn't have a scholarship, I took the course because I wanted to complement my training." [Female Spanish immigrant/RJ]

"I attend a school in Brazil, which is the UERJ in Maracana, as a doctoral student." [Male Spanish immigrant/RJ]

"I don't attend any school in Brazil. I only have the student visa. I looked for a cheaper private course, because then they ask for a lot less stuff (documentation). But I never attended it." [Female Spanish immigrant/RJ]

7.3.2.6 Access to healthcare

Of the Spanish immigrants we interviewed, 14 (56.0%) declared having used health services and 11 (44.0%) did not use. Out of those who used health services, eight used the private system and six used public healthcare. Two immigrants said they had used both systems. Two used a healthcare system, but did not say whether it was the public or the private one. Women used the private healthcare system (5) more than the public one (3). Among men, half used the public system and half used the private one. It is notable that among the 14 who accessed health services, 9 (64.3%) were regular when they were treated and 4 (28.6%) were irregular.

Regarding the treatment rendered in health services, 10 Spanish immigrants reported perceiving no difference in treatment because they were foreigners or because they were irregular in the country. Out of these, 6 (60.0%) were regular (5 males and 1 female) and 4 (40.0%) were irregular (3 females and 1 male). Two immigrants noticed a difference in treatment because they were foreigners and, out of these, one refers to this as a positive differentiation; that is, he felt that foreigners were treated better than many Brazilians. Four immigrants who used the public health service (SUS) were critical of it, especially with regard to delay in getting treatment, which led them to seek private care. The testimonials below relate their experience:

"I used the private health system, I have health insurance. I was doing a routine checkup, it took a long time: they schedule a time and the doctor arrives an hour later (lack of respect), but the medical treatment was good." [Female Spanish immigrant/Natal]

"I have already used SUS (Unified Health System), but the treatments they had at the place I went to were not enough. I can't say I was mistreated."



I was seen, but it took three weeks to be able to do a blood test, then another three weeks to get the results. I got the SUS card at the same time, there was no difference due to the fact I am a foreigner. Currently, I use the private system and I don't have any problems." [Female Spanish immigrant/RJ]

"I have already used the Unified Health System (SUS, 'sistema único de saúde') once. It happened because I had an emergency because of a stomach ache. And the doctor said that this was not urgent, it was more of a chronic kind of thing. So she gave me medication, but I still have this condition that needs to be treated, I know I need to solve this problem. But at the time I was treated very well." [Female Spanish immigrant/RJ]

The most common reasons cited for seeking the health services were gastrointestinal problems; checkups and examinations, especially for females (gynaecological checkups); colds; dengue fever; allergies to insect bites; fractures; and dental treatment.

7.3.2.7 Access to social benefits and facilities

When asked whether they approached any institution to learn about their rights as immigrants, only eight responded affirmatively. Among those who sought information on their rights, the institutions they approached were the Consulate of Brazil, the Consulate of Spain, Ministry of Labour, Ministry of Justice – Department of Federal Police, and the Casa Madri,¹¹² where the Association of Spanish Immigrants is located in São Paulo.

Only six respondents went to immigrant associations to obtain information about their rights, especially those who were in São Paulo (Casa Madri).

Seven Spanish immigrants reported having little knowledge about their rights, only what was necessary to be regular or to find formal employment.

Regarding the benefits to which they should have access, only three respondents reported knowing these benefits and the others said they did not know the benefits to which they should have access. These reported knowing, above all, the rights related to work, especially unemployment insurance, health insurance and food stamps. Ten immigrants were enrolled in social security. With regard to grants in general,¹¹³ none of the respondents claimed to have availed of any type of subsidy. Only nine of the respondents said they knew that contributions to the social security in Brazil were valid for Spain. Even so, they admitted ignorance of details about the procedures to access that right, or how long it would take to do so.

Regarding social services offered by Brazil, five Spanish immigrants said they had noticed a difference in treatment of nationals and foreigners. One of the immigrants reported that Brazil has many social problems, especially related to education and inequality. The same respondent also noted that there was lack of care for the city, the infrastructure was poor and there were serious problems with transportation and education.

On the perception of difference between treatment of skilled and unskilled immigrants, especially in the workplace, one of the immigrants said that "unskilled immigrants live in semi-slavery."

¹¹² The Casa Madri of São Paulo is a nonprofit association that helps Spanish immigrants in São Paulo (<http://casademadridensaopaulo.org>).

¹¹³ Financial support provided by governmental and non-governmental entities.



Regarding political rights, only seven immigrants said they knew about these rights. However, they understand that political rights for foreigners do not exist in Brazil, as reported by an immigrant:

"I think so, I think I cannot vote here till I have been here for 15 (years) and obtain (Brazilian) citizenship. I don't have any political rights." [Female Spanish immigrant/RJ]

7.3.2.8 The impact of the migration project on the family

We noted that only three respondents reported having relatives in Brazil (spouses and uncles), four had family members who had migrated here before them, and the remaining said they had no relatives in the country. Only four said they were financially responsible for their families. Conversely, six immigrants reported they were economically dependent on someone in the family.

Immigrants who study reported receiving sporadic help from family, but also worked to sustain themselves.

Most of the Spanish immigrants were self-employed people who came to Brazil alone, and were neither dependent nor maintaining anyone financially. Those who had come with their families were exceptions. It is notable that three immigrants began romantic relationships in Brazil.

On the issue of sociability, it is clear that there are differences among immigrants: three stated that they only had Brazilian friends, five said they only had Spanish friends, nine reported having friends from both Brazilian and Spanish nationalities, and seven reported having friends from other nationalities, in addition to Brazilian and Spanish.

Having lived a short while in Brazil, some immigrants reported that they were still developing their relationships with Brazilians. They also reported that the locations and environments favouring the formation of new friendships were the *Casa Madri* in São Paulo and their neighbourhoods, but they emphasized that their workplaces and social networks were the environments that favoured developing friendships the most.

The testimonials below reflect the development of relationships between Spanish immigrants and Brazilians:

"In truth, all my friends in the beginning were from Spain. But after we began having relationships with the Brazilians, now everything is changing and I think in the end almost all of our friends will be Brazilians and we gather everyone, us, colleagues, (my) husband's friends, friends of friends and begin expanding the network." [Female Spanish immigrant/RJ]

"There is a great mix, not long ago I met Spanish friends, but the majority are Brazilians." [Female Spanish immigrant/RJ]

"Brazilians are very friendly, but it's hard to develop solid and continuous friendships." [Male Spanish immigrant/SP]

The Spanish, like the Portuguese, claimed to participate during leisure periods in local cultural activities with friends and going to beaches or gatherings of Spanish people at Casa Madri. Some mentioned participating in gatherings and parties at friends' houses and to enjoy the city, as reported in the following statements.



"We enjoy it and go to the beach and try to gather everyone that we know, Spanish, Brazilians. I like drinking beer when I go out, wherever I go, because going to a nightclub, a party, it is all very expensive, and also transportation is very expensive, so I can hardly ever go out. So, since we live in Santa Teresa, we either stay there, or we take the bus and go to the beach." [Female Spanish immigrant/RJ]

"If the weather is nice I prefer to go to a beach, or to a party at Lapa, or to a barbecue, make lunch. We gather Brazilians and foreign friends." [Female Spanish immigrant/RJ]

7.3.2.9 Evaluation of the migration project

The main difficulties pointed out by the Spanish respondents were related to the language – during the initial period in Brazil – and the bureaucracy to have access to services, such as opening a bank account, getting a visa and a rental agreement. The difficulties for the validation of diplomas and certificates for completion of courses were also mentioned by immigrants. Like the Portuguese, the Spanish respondents also resented the difficulties related to transportation in the country as a whole and in some cities specifically, mostly São Paulo.

Some testimonies from immigrants emphasize these difficulties:

"To me, something really difficult in Rio is transportation. I can never understand where I should wait to get the bus, where I need to stop and get out. I don't know...I can't understand it. And also the issue of punctuality. Another thing that is really weird to me is that downtown is the heart of the city, and here in downtown everything is closed, there is no one." [Female Spanish immigrant/RJ]

"I think the first difficulty is to become regular here, to issue the CPF number, and also if I want to work here, I need a visa, but the employers don't want to hire us if we don't have a visa, and also we cannot open a bank account." [Male Spanish immigrant/RJ]

"It was the bureaucracy for me to be able to work here, to get a work contract here. Because, for any company it is a very high cost and not every company wants to do that." [Female Spanish immigrant/RJ]

"I was supposed to be here in January and I arrived in February. The services at the Consulate in Madrid are very bad, I could not reach them by phone, and it is very hard to arrange an appointment with them by email to do something. Well, what I noticed is that treatment of Spanish people is bad in general. I see it in the newspapers, in the news, that the treatment of Brazilians in Spain is also very bad. In the midst of all this I didn't know if I was going to receive my scholarship. And finally I got it, after travelling twice to Madrid, spending my money, time and energy. But the experience was really bad. (...) To me, it was a unique opportunity and I suspected I wasn't going to get the scholarship, so I was very worried. And my scholarship is the (only) financial support I have to stay here in Brazil." [Male Spanish immigrant/RJ]



"The main difficulty is to obtain one of the four requirements for getting a visa: having a Brazilian child, marrying a Brazilian, getting a job or making an investment. These are the paths (prescribed) in the Brazilian legislation. If I don't get any of the first three, I'm going to have to think about the fourth requirement and make an investment." [Male Spanish immigrant/SP]

Notably, several of the respondents indicated that an initial difficulty was the "culture shock" when they arrived in Brazil. This phenomenon may be connected not only to the language, but also to issues related to public safety that, according to one interviewee, led people to isolate themselves.

At times of difficulty, 17 (68.0%) immigrants sought help from friends and relatives, 4 (16.0%) sought hired professionals or companies specialized in dealing with foreigners, 1 (4.0%) looked to colleagues, 2 (8.0%) solved their problems on their own and 1 (4.0%) did not answer this question.

Responding to what could be done by the Brazilian government to help immigrants, the most frequently mentioned measures were the reduction of bureaucracy in the provision of services – especially for opening bank accounts – increasing the duration of the visas, and creating ways to facilitate the validation of non-Brazilian diplomas. Some suggested creating an information desk to provide information and advice to immigrants, as well as improving the way immigrants are treated at the Federal Police Department.

The statement below reflects an immigrant's understanding of the difficulties in the implementation of a more open immigration policy:

"It depends on the policy of each government. The Brazilian (immigration) control policies are similar to those in Europe. For my own benefit, I should say that it is necessary to facilitate migration, but it doesn't seem fair. It would be interesting if they facilitated economic activities, but it is hard to articulate this without generating serious comparisons to other social groups. I think Brazil would grow faster if it allowed the entry of technical experts and businessmen and facilitated their integration into the country. However, this does not seem to be easy to do in a political sense," [Male Spanish immigrant/RJ]

In response to a question on what the Spanish government could do to improve the situation of immigrants, the respondents suggested improving the relationship between the Brazilian and Spanish Ministries of Labour, facilitating access to information, enhancing reciprocity between the two countries and improving the process of announcing Brazilian job opportunities in Spain.

7.4 Dialogue with institutions and authorities

In this section, we will present a few statements obtained from entities and authorities from the countries of origin of the immigrants selected for this study. Since, at the time of the surveys, this was a theme that gained media attention and stimulated debates that were often mismatched and unscientific, we chose to try and consult official sources to contrast the opinions given by immigrants that were presented in previous sections.

Considering the controversial aspects of such a discussion and its politically sensitive nature, given that it interferes in the relationship between governments, there was some difficulty in scheduling the interviews and we were unsuccessful in our attempts



to speak with representatives from the Consulates of Spain and Portugal in the cities where the surveys were conducted. During these encounters, we were always advised to discuss the matter directly with the embassies. Only in Belo Horizonte, even though it was not one of the sites chosen for the survey, we were able to communicate with the person responsible for the Consulate of Portugal, who replied by note to the questions we submitted in writing.

With respect to entities that support immigrants, it was observed that, except in the case of the Spanish people in São Paulo, there were no indications in the immigrants' responses that these bodies were used as the reference and support sites for the migration process. Even so, we made a few contacts that did not provide any indications of specific procedures for treating immigrants. The opportunity to include a point of view other than the one offered by the representatives of Portugal and Spain came in the seminar "Portuguese citizens in Brazil: New challenges," organized by the Centre for Population, Economics and Society Studies of Portugal (CEPESE, *Centro de Estudos da População, Economia e Sociedade de Portugal*), from the University of Porto. This event was held in São Paulo, Rio de Janeiro and Salvador at the end of 2012. The seminar proposed a dialogue between Portuguese immigrants, the civil society and Brazilian authorities in the discussion of the problems encountered with the new flow of migrants who had Brazil as their country of destination.

In conclusion, all of these difficulties in establishing contact with interlocutors involved in the migration process, from Spain and Portugal to Brazil, have led us to choose to present the results of the dialogues synthetically, without trying to confront them with the results of the interviews with the immigrants. The points that were raised at the seminar in Rio de Janeiro, and the reports on the contacts with representatives of the Spanish and Portuguese governments are presented below.

7.4.1 International seminar: "Portuguese Citizens in Brazil – New Challenges"

Included in the official agenda for the celebrations of the "Year of Portugal in Brazil," the international seminar "Portuguese Citizens in Brazil – New Challenges" aimed "to establish a space for reflection about the Portuguese emigration to Brazil."

We analyzed the difficulties faced by Portuguese citizens in Brazil, the bureaucratic obstacles they have to overcome, opportunities for integration of skilled Portuguese individuals into the Brazilian labour market, the examples of success achieved in recent years and the contributions of these Portuguese people – present or potential – to the socioeconomic development of Brazil.

This seminar was attended by professors, journalists, businessmen, diplomats, politicians and others who have followed these issues closely during to the exercise of their functions or the conduction of research.

Next, we outline a few points debated at the event that we considered relevant.

During the discussions, it was clear that the situation of the Portuguese immigrants in Brazil is, from the legal perspective, more privileged than that of other immigrants. Constitutional¹¹⁴ and sub-constitutional procedures ensure conveniences to Portuguese nationals staying in

¹¹⁴ Article 12, item II, paragraph A: "...those who, under the Law, acquire the Brazilian nationality, while it is only required for those originating from a Portuguese-speaking country the uninterrupted residency in the country for a year and good moral character" and Decree-law 3927 of 09/19/2001 (details about this legislation can be found in chapter 4 of this publication).



Brazilian territory. However, there are a number of problems that require a more detailed assessment by the authorities of the two countries.

The issue of antilusitanism in Brazil was considered as an important factor that, even if it is not yet explicit in society, is already perceived by some immigrants. Given this fact, we need to look carefully at the labour market, paying special attention to the Portuguese in socially vulnerable situations, aiming to create a migration policy promoting the inclusion and integration of those who are currently arriving in Brazil.

In the discussion of the migration process, two points were considered relevant. The first proposed to facilitate the entry of Portuguese individuals, whether unskilled or skilled immigrants, through agreements signed between the two countries and strategies established by the existing solidarity and immigration networks. Another recommendation pointed out the urgent need for the National Congress to consider the Bill 5655 of 2009, which amends the "Statute of Foreigners" (Law 6815, 1980).

The issue of recognition in Brazil of diplomas and certificates issued by Portuguese educational institutions was a specific point in the discussions, a process that was indicated a hindrance to the new reality of migration worldwide. While Brazilian educational authorities strive to expand cooperative ties with foreign educational institutions through programmes like Science without Borders ("*Ciência sem Fronteiras*") and collaborative doctoral studies in graduate schools, the law still requires the revalidation of each individual diploma instead of taking measures for the institutional recognition of certificates issued by foreign educational institutions.

On the topic of Portuguese institutions, the possibility of a more active participation by Portuguese companies in Brazil was discussed, which should be encouraged in order to support immigrants through job offers and assistance. The Portuguese diplomatic representations should play the role of active pursuers of business opportunities and jobs, and facilitate the contacts between entrepreneurs from the two countries.

It was generally understood that Brazil could play an important role in solving the Portuguese economic crisis by strengthening economic relationships that would benefit both countries.

7.4.2 Institutional interviews

Interview with the Consul General of Portugal in Belo Horizonte/MG

The text below is based on a written response submitted by the Consul of Portugal.

Before the economic crisis of 2008, the issue of the immigration of Portuguese citizens to Minas Gerais was of little relevance and overall it related to people who had family ties in Brazil. After the beginning of the crisis and with greater strength in 2011, the arrival of immigrants in the state has become important. In this group, there are the Portuguese wives or husbands of Brazilians, but in recent months the arrival of Portuguese workers in search of employment has been observed.

According to the Consul, the main problems faced by Portuguese immigrants in Brazil are related to bureaucratic difficulties in regularizing their status in the country, since some immigrants come without a work visa.

The profile of the average Portuguese immigrant who approaches the Consulate in Belo Horizonte does not differ from what is observed in other cities, and is characterized by a



majority of adult males between 25 and 40 years of age who have secondary or higher education. Many are professionals in engineering and information technology. Most workers come in search of jobs and later attempt to become regular.

With regard to measures that could be taken in order to reduce the difficulties encountered by Portuguese immigrants in Brazil, the Consul indicated that the most important steps would be to make the process less bureaucratic, invest in training the staff involved in the process and, above all, improve access to information. According to the Consul, these measures have already been taken by the Portuguese government when dealing with immigrants in Portugal and it is important that the efforts made by Brazilian authorities move in the same direction with respect to immigrants coming to Brazil.

Interview with the First Secretary of the Embassy of Portugal, who is in charge of the Consular Section in Brasilia

The conversation with the Secretary took place at the Embassy of Portugal in Brasilia, where he addressed the issue of the recent immigration of Portuguese individuals to Brazil. After a short digression about the migration culture of Portuguese people, highlighting that, Portugal currently has 10 million inhabitants while simultaneously it has 10 million citizens living in other countries, the Secretary pointed out that there is a growing supply of Portuguese workers who are interested in coming to work in Brazil. In general, this flow followed the same temporal outline of the economic crisis that began in 2008 and worsened in the recently. This group of immigrants consists mostly of recently graduated young people, but there are also older people, in some cases, above 50 years of age. In terms of academic formation, most people seeking information from the Consular Section had higher education.

The Embassy, in addition to providing the regular services through a Consular Section, it also plays the role of responding to queries about employment opportunities in Brazil. Upon request, an official from the mission does some research on the Internet and indicates job opportunities within the applicant's area of expertise.

When asked about which points could be improved to better help the immigrants, the Secretary pointed out, firstly, a need to reform the Brazilian legislation that he termed as very bureaucratic and does not allow, for example, for a foreigner to come from abroad to seek employment. He pointed out that the biggest problem at present for the Consulate has been the issue of Portuguese prisoners serving sentences in Brazil. The legislation prevents the convict from working, even on parole, which could contribute to making the person a repeat offender, due to the difficulties found when trying to stay in or even to enter the labour market.

It is estimated that this is the situation of about 100 to 200 people of Portuguese nationality. Alongside this situation, there is a failure by the Brazilian authorities to respect the legal rules that oblige them to inform the Consulate when a Portuguese citizen is arrested.

He also noted that the flow of Brazilians to Portugal should still be considered, but that Brazilians currently seeking careers in Portugal are people with higher levels of education, mainly seeking work in the academic sector.

The Secretary stated that he recognizes the efforts made by the Brazilian government to improve immigration laws, such as the proposal of a new law and specific reforms. Nonetheless, he thinks that these procedures should be accelerated: according to him, the country loses a great deal when it does not take advantage of the available workforce.



He points out further that the proceedings to get a visa are very complicated, in some cases absurd: in one case, two immigrants had to present a translation of their documents by an official translator, even though the documents were written in Portuguese. The justification presented by the Brazilian authority for such demand was that the legislation required it.

Another point we discussed was the progress in negotiations between the professional associations of Portugal and Brazil, in particular the Regional Council of Engineering and Architecture (CREA, *Conselho Regional de Engenharia e Arquitetura*), towards obtaining work permits for professionals in the areas of architecture and engineering. The Secretary believes that the problems will be addressed for architects, but that, in the case of engineers, more time and further conversations will be needed.

Meeting at the Embassy of Spain in Brasilia with the First Secretary in charge of the Consular Section, with the Economic and Commercial Counsellor, and with the Employment and Social Security Counsellor

The representatives of the Spanish government indicated that there is great interest on the part of Spanish businessmen to invest in Brazil. In 2012, they stated, Spanish companies invested more than US\$85 million in Brazil, making them the second-largest investors in the country. Spanish companies hired 214,000 Brazilian workers, which represent 90% of the companies' workforce. Indirect jobs created by Spanish investments exceed 1.1 million and the social shares of the companies amounted to R\$123.0 million.

However, the economic situation in Spain is worrisome. The level of unemployment in the country is around 26% of the workforce, and 52% of these are young people. This includes 80% of architects.

According to the diplomats, these two situations, seemingly antagonistic, create opportunities for Brazil to take advantage of the skilled unemployed workforce from Spain, through the participation of Spanish companies in the activities of the "Pact for Growth Acceleration" programme (PAC, "*Programa de Aceleração do Crescimento*"), expanding Spanish investments in Brazil.

According to the Embassy, international migration between Brazil and Spain could be summarized in three aspects: the issue of the arrests of Spanish citizens, often involved in drug trafficking, mostly as "mules";¹¹⁵ the occurrence of marriages between Brazilian women and Spanish men; and matters related to labour migration.

Given the subject of interest for this study, the conversation focused on the last two topics. When discussing marriages between Brazilians and Spanish individuals, we were told that, in the area covered by the General Consulate in Brasilia in 2012 there were more than 100 cases of union formalization within the Spanish law and it is estimated that approximately 100 other officializations happened in the jurisdictions of the Consulates in Rio de Janeiro and São Paulo. In many cases, it is observed that Spanish people are unaware of Brazilian legislation on marriage or *de facto* unions and that the growing number of Spanish immigrants in an irregular situation in Brazil makes them more vulnerable. They mentioned the case of a Spanish man who met a Brazilian woman and who, while in a relationship with her, bought a few assets. Since the Spanish man was an irregular immigrant and could not conduct any operation involving notarial record, he registered the assets under the Brazilian woman's name, who acquired all the assets he had purchased when they got divorced. It is clear that,

¹¹⁵ This is a term related to drug trafficking, referring to an individual who transports drugs for a dealer.



when the immigrant is single, young, and has been in Brazil for more than two years, there is a strong tendency to get married, even if this is just a means to regularization of their immigration status.

Regarding labour migration, the Embassy indicated several problems. The first refers to the impossibility for Spanish professionals to practice their profession in Brazil, even when they have employment offers. There are obstacles of all sorts, starting with the difficulties in getting Spanish diplomas recognized by Brazilian authorities. This situation is crucial for architects because, due to the difficulties in the recognition of their diploma and the obstacles posed by the Board of Architecture and Urbanism (CAU – *Conselhos de Arquitetura e Urbanismo*), they cannot work on a regular basis. This situation has led many professionals to provide services to Brazilian companies, but the final work is certified by a Brazilian national. This generates not only discomfort, but also puts the immigrant in a situation of personal and professional vulnerability.

Despite the problems, there is recognition of the efforts taken by the Brazilian government to modernize legislation. The visit from Minister Moreira Franco, the Secretary of Strategic Affairs of the Presidency (SAE/PR – *Secretaria de Assuntos Estratégicos da Presidência da República*) to the Embassy of Spain in March 2013 was noted as a good sign in the search for solutions to these problems. However, there have been reports of several “bottlenecks” hampering legal immigration. For example, when applying to the Ministry of Labour for a work permit visa the process is efficient, but when it gets to the Consulate of Brazil in Spain, there is a great delay for issuance of the visa. There are no deadlines stipulated for the Consulate to complete procedures and it often takes weeks to schedule the interview with the candidate. There is a general opinion that this phase should not exist, since the person has already gone through the entire process of obtaining a visa.

When considering the recommendations for actions to improve migration status, the following points were listed, among others: a) to regularize irregular migrants who are working in Brazil; b) to create immigrant quotas by sector, as done in Spain; c) to advance the adoption of devices that facilitate skilled migration, such as the European “blue card”; d) to reformulate the temporary visas provision for technical work to allow workers to stay for periods that are consistent with the duration of the task to be performed in Brazil; e) the centralized recognition of diplomas and certificates issued by Spanish institutions, changing the system of individual recognition of each title separately, to a process of recognition of institutions and their courses.

7.5 Final considerations

The migration of Spanish and Portuguese nationals to Brazil is not a recent phenomenon, but over a long period, population exchanges between these countries stagnated or reached a balance of nearly zero. Although the Portuguese community represents the largest group of foreign immigrants in the country, while the community of Spanish origin is in fourth place, the new flow of immigrants coming from those countries has little or no connection to those who came to Brazil during the last century.

This recent migration, which increased after the economic crisis of 2008, is composed of young people who, in their majority, are between the ages of 30 and 35, who have high levels of education or are involved in work/research requiring specialized knowledge. They are mostly males, and came to Brazil in search of better living conditions and employment in their area of academic formation.



Due to their qualifications, these immigrants are usually above the average Brazilian worker: they operate in specific niches in the labour market, such as in engineering, architecture and specialized services. They fulfill, in some cases, the interests of investors to bridge the country of origin with the Brazilian market, mainly in the real estate field.

Except in the cases of those who migrate with an employment contract, often guaranteed by the parent companies in the country of origin that have branches in Brazil, the migratory process is roughly similar to most of those immigrants who chose to try their luck in Brazil. The tourist visa allows for a 90-day stay in order to assess the labour market and identify opportunities. In some cases, there is the possibility to obtain an extension of that visa or even return to the home country for a short period and then come back, for another 90-day period, to continue the job search.

Once they find work, this could be the route for migratory regularization or, depending on the conditions, these immigrants get into a situation of irregularity since the tourist visa does not allow any work activity. This exposes the immigrant to conditions of vulnerability, putting them at risk of deportation and labour exploitation. This situation of irregular work, according to the testimonies of immigrants and consular authorities, happens more often to professional immigrants in the field of architecture.

However, even with the prospect of a job opportunity, immigrants face many obstacles in practising their profession. The need for recognition of higher education degrees obtained abroad, which must go through a long process in a Brazilian university and then in professional councils, makes the process of hiring the professionals an almost impossible situation for a company that urgently needs a professional.

Facing the impossibility of getting a work visa, strategies to extend their stay in the country may involve, as reported in some cases, the establishment of unions with Brazilian spouses which would allow residency in Brazil. This fact was stated by the Spanish consular authorities as a concern, since the immigrants have no knowledge of the Brazilian Civil Code, which can result in delicate situations in the case of separation.

Even though the respondents were mostly higher education professionals, the difficulties encountered in relation to housing reflect the observations from other studies;¹¹⁶ these situations are recurrent and concern getting a guarantor and documents required for contracts, making a security payment, among others, which are even more complicated in the case of undocumented migrants. The solutions for these problems come through the support of friends, relatives and even employers who choose to help. Shared housing was also mentioned as a form of housing which is less expensive and easier to obtain. In this case, the internet was the most used instrument by accessing websites aimed at this community.

Despite earning wages that are above what would be earned in the country of origin since the current crisis, few immigrants can have savings accounts, since they indicate that the costs of living in Brazil are very high in relation to the remuneration received. Still, there were no indications of explicit dissatisfaction with the wages and working environment. By contrast, immigrants indicate having a feeling of positive discrimination in the workplace that values their activity.

In a broader assessment of the migration project, the respondents indicated that the biggest problems faced are related to the bureaucracy of the state that, instead of contributing to

¹¹⁶ Chapters 5 and 6 of this publication deal with migration of Brazilians to Spain and Portugal.



migration, ends up creating obstacles and “pushing” for the irregularity of a great portion of immigrants. Suggestions to enhance this process can be generally summarized in the following points:

- Provide information about the rights of immigrants in the official websites of the Brazilian Government such as the Ministry of Labour, Department of Federal Police and the Ministry of Foreign Affairs (*Itamaraty*). This could complement the use of social networks for information, since these networks are not always reliable.
- Capacitate staff of the various agencies that have contact with immigrants to provide information and services within well-defined patterns. This would reduce the inconsistencies of information provided by these agencies.
- Create service desks for immigrants, focusing on the provision of services and information specific to this audience.
- Generate mechanisms for the recognition of diplomas issued by educational institutions abroad, so that this ceases to be an individualized process and becomes an institutional recognition; the diplomas issued abroad from the institutions approved in the evaluation process would be valid in Brazil. Such a measure would not only serve immigrants, but also Brazilians who have completed courses abroad.
- Create mechanisms for consultation between the governments of Brazil, Spain and Portugal to facilitate the hiring of professionals, thus decreasing the bureaucratic proceedings in the Consulates and accelerating the processes for granting work permits.



REFERENCES

HERNANDO, Asunción M. e MARTINEZ, Elda G. Las. Migraciones internacionales. in **Crónicas del Siglo XX**. Dastin Ediciones. Madrid. 172 p., (2006).

PATARRA, Neide e FERNANDES, Duval. Políticas públicas e migração internacional no Brasil in LeonirChiarello(org) **Las Políticas Públicas sobre Migraciones y la Sociedad Civil en América Latina**: los casos de Argentina, Brasil, Colombia y México. ScalabrinInternationalMigration Network. New York. P.151-275., 2011.

SCHRAIBER, L. B. Pesquisa qualitativa em saúde: reflexões metodológicas do relato oral e produção de narrativas em estudo sobre a profissão médica. **Revista de Saúde Pública**, Sao Paulo, v. 29, n. 1, p. 63-74, 1995.





8. FINAL CONSIDERATIONS AND RECOMMENDATIONS

This chapter presents the final considerations of the three studies that were the subject of this publication, namely: the research with Brazilian immigrants in Spain; the research with Brazilian immigrants in Portugal; and the research of Portuguese and Spanish immigrants in Brazil. Despite not having a conclusive and general character, it is believed that the points we raised will contribute to the discussions aimed at formulating policies for assisting migrants, both for Brazilians seeking options outside the country, as well as for foreigners choosing to reside in Brazil.

We chose to present, at first, a summary of the three studies and then indicate some recommendations that arose from the contacts we made with immigrants in Brazil, Portugal and Spain.

8.1 Summary of the three studies

Although these are studies that deal with different realities, European immigrants in Brazil and Brazilian immigrants in Portugal and Spain, it is possible to observe some similarities in the situations that were described during the research.

It is important to emphasize that the two groups have different characteristics. The Europeans from Portugal and Spain that are residing in Brazil, especially those who have recently arrived in the country, are highly educated and most of them are young with some professional qualification at the university level. Most Brazilians living in Portugal and Spain have low qualifications, mostly with a vocational degree, and arrived in Europe before the most severe phase of the 2008 economic crisis.

In both cases, these immigrants use social networks to prepare their migratory path. The social networks of Brazilians were created prior to the networks of Europeans who are currently in Brazil. Even though in the past, especially in the first half of the 20th century and part of the 1960s, the flow of Europeans to Brazil was important, few respondents stated that they had any contact with this older generation of immigrants.

It is worth noting that, in some cases, these social networks can facilitate access to services or even provide solutions to problems that immigrants, due to their legal status, could not resolve through regular channels with the authorities from the country of residence. However, these “arrangements” that facilitate the daily lives of immigrants may, in most cases, induce precarious working and housing conditions, increasing the situation of vulnerability to which they are exposed. That is, even though a European immigrant in Brazil in most cases possesses a high level of education, lives in better conditions than a large portion of the population and earns incomes above the national average, one could still not claim that he or she occupies a privileged position. Their immigration status forces them, for example, to work erratically,



exposing themselves to working conditions that are not accepted by Brazilian professionals. Likewise and more frequently, we find situations of vulnerability among Brazilian immigrants in Europe. In this case, the low pay and the lack of specialization that prevents access to services are conditions that compound the vulnerability of the migratory path.

Finally, it is important to mention that, in addition to the differing labour markets in the three countries in question, economic performance following the crisis that began in 2008, and the opportunities in terms of quality of life offered in Europe and South America, the issue of immigration policies is a crucial factor to understand the migratory flows under discussion. This is evident in the study on immigration legislation in each of the three countries, which is incorporated in this publication.¹¹⁷ This is a central point when seeking to compare situations as disparate as immigration to Brazil, Portugal and Spain. The latter two countries have already advanced in terms of legislation, not only in aspects related to entry, but also regarding the possibility of regularization and, particularly, the integration of foreigners with the local society.

On the other hand, Brazil has the largest legal framework in the area of international migration, an instrument deployed at a moment of democratic exception that, despite recent government efforts, is still a remnant of the dictatorial regime that ended as democratization began in 1988.

This section will summarize the points that have been dealt with in the studies, comparing some topics of analysis and indicating the difficulties raised by the two sets of immigrants, namely the Europeans in Brazil and the Brazilians in Spain and Portugal.

8.1.1 *The migratory trajectory*

When comparing the two groups under analysis, Europeans in Brazil and Brazilians in Spain and Portugal, we can observe that the migratory trajectory presents a certain similarity. Besides those who have migrated with some kind of work or study visa, the vast majority entered their countries of destination with a tourist visa.

In the case of Brazilians in Europe, especially in Portugal, this was consistent with a strategy of staying longer with irregular status. Due to the conveniences offered by the law, such a situation could be regularized once the immigrants obtained a working contract.

In the case of Brazil, despite using the same type of visa, the reported strategy, in some cases, was to stay longer, request a visa extension for a period longer than 90 days or return to the country of origin and then go back to Brazil as a tourist for an additional period.

For both groups, entries with student visas also work as an alternative to searching for a job and even become an opportunity to learn about career possibilities in the countries. Since the 2008 crisis, this strategy is more frequently used by foreign immigrants in Brazil than for Brazilians in Europe.

Across all cases, the search for regularization is considered as an important factor for almost all respondents and the conveniences offered in European countries are always mentioned, especially in the case of Portugal. It should be noted that *de facto* or civil unions are also pointed out as possibilities for regularization and, in the case of emigration to Brazil, due to the immigration laws, this can be a relatively faster and easier path for regularization.

¹¹⁷ See chapter 4 by Professor Diego Acosta.



8.1.2 Access to housing

Although these are two distinct groups, the issue of housing is considered primary and approached in a similar way by both. The starting point tends to be the social network or websites that connect landlords and potential tenants.

Among the Brazilians in Europe, reports indicate certain patterns in the choice of housing including the sharing of houses or even rooms with other people, usually shortly after arrival. After a long stay, migrants would begin to find alternatives such as individual homes or places that felt like households.

In the case of immigrants in Brazil, they mostly prefer individual rent, since the characteristic of the immigrant and the availability of financial resources allow for more appropriate solutions.

However, the difficulties reported in this aspect are also common to both groups. The need for a guarantor and, in some cases, the need to make a security deposit, puts immigrants in a vulnerable situation because they are forced to pay more for housing in precarious conditions or to turn to friends or other parties to find a guarantor. For Brazilian immigrants in Spain and Portugal, the situation reported was more problematic because, being undocumented and with few resources and no friends to act as guarantors, the process of obtaining housing was arduous and caused significant concern.

In relation to foreigners in Brazil, despite reports of difficulties in presenting a guarantor or the necessary documentation, these immigrants obtained simpler solutions due to their economic and social conditions.

8.1.3 Employment

In the area of employment, differences between the two groups appear greater. While all groups have indicated the importance of social networks and informality in finding their first job, in most cases, the differences outweigh the similarities.

Regarding the relation between level of qualification and work duties performed, in the case of Europeans in Brazil, the majority of respondents reported working in their area of training; this was not the case of Brazilians in Europe. Also, the type of work available for the latter group, especially for women, tends to be in the domestic service sector. Again, this is not the case for the European respondents in Brazil. Also, in relation to the Brazilian migrants, even when it came to formal work with a regular migratory status, there was a difference between the area of training and the activities performed. We noticed that, in Portugal, even those with a longer period of residence fail to achieve meaningful professional progression comparable to that of Portuguese citizens.

When dealing with employment discrimination on account of immigration status, the majority of respondents in both groups indicated that there were differences in the way immigrants were treated according to their statuses, especially since this type of discrimination takes the form, in most cases, of lower work compensation for irregular immigrants. This point indicates a clear perception of a link between labour vulnerability and the situation of irregularity.

However, employment discrimination is perceived differently by the two groups when considering foreigners and citizens. While among Brazilian immigrants in Europe



discrimination is reported as common and, particularly in the case of women, it is seen as very worrisome, the foreigners in Brazil have an entirely different experience due to their qualifications, which were reported as being superior to those of Brazilians.

8.1.4 Education

While few interviewees reported accessing school services, since among both the Brazilians and European respondents there were only a few who had school-age children, it is known that access to education is guaranteed in the three countries. However, in the case of Brazil, the children of irregular immigrants sometimes find it difficult to enroll in public schools if they were born abroad.

Among immigrants who attend universities in the three countries and have a student visa, the reactions are positive and their evaluations of the provisions, in most cases, indicate satisfaction with the courses they took. There were also reports about immigrants taking vocational courses offered by government agencies in Spain and Portugal.

The greatest difficulty pointed out by immigrants from the countries under study concerns the recognition of diplomas in Brazil. Difficulties in the recognition of diplomas are an impediment to the regularization of immigration status. For Brazilians living abroad, upon their return, the certificates they obtained abroad, as well as elementary, middle or high school diplomas, are not easily accepted by the Brazilian educational institutions for the continuation of their studies. In case of higher education diplomas, there is an extensive recognition process to be completed, similar to what is applied to the diplomas of foreigners.

8.1.5 Healthcare

Generally, in the countries contemplated in this report, access to healthcare is universal in the case of emergencies. Regarding clinical practice, the immigrants' access to these services varies according to the legislation in each country.

The Spanish and Portuguese immigrants interviewed in Brazil indicated that they did not perceive discrimination in healthcare because of their immigration statuses and that, like most of the population, they use private healthcare when their situations allow it. Access to the system for scheduling appointments in the public sector is generally prohibited to irregular immigrants.

In the case of Brazilians living in Portugal and Spain, the reports are also positive, but the changes that have been introduced to local laws on assistance to irregular immigrants, especially in Spain, are a cause for concern. Indications of discrimination during treatment or even dissatisfaction with the services rendered were few; apparently these are common problems that usually happen in any country's healthcare system. Interviewees also mentioned the issue of health insurance, a condition for obtaining a student visa, which is asked of foreigners attending universities in these two countries. Some interviewees found the cost of insurance to be very high.



8.1.6 Benefits, rights and social facilities

In this area, the comparison between the two groups is impaired because of differences in the extent of social services and facilities offered in the three countries. Additionally, the two communities are extremely heterogeneous and the length of time spent on foreign territory is also a factor for the difference in access to services and information. However, it is noteworthy that, in relation to knowledge about the services and rights of immigrants, there are similarities between the two groups we surveyed. Firstly, a lack of information about the rights of migrants in a foreign country and a lack of interest in finding out this information is common to both. In the case of Portugal, there is a specific service to provide assistance and information to immigrants, but in the other two countries, the main references for information are the Consulates, especially for Spanish and Portuguese citizens in Brazil, which was confirmed by the consular authorities from the two countries. Regarding Brazilians in Europe, the most common mechanism for obtaining information is the use of the social network.

Due to specific migration agreements between Brazil and Portugal, one would expect greater interest by the members of these communities to know their rights as immigrants. However, this expectation has not been confirmed by the findings of this study.

Finally, it is worth noting that immigrants seek services to facilitate the process of regularization when there is the possibility to use them. This includes, for example, enrolment in social security in Portugal, which can be used as proof of residence in Portugal. A similar process could be found in Spain in the past with the enrolment in the Spanish Municipal Registry at times of extraordinary regularizations.

8.1.7 Evaluation of the migration project

For this subject, respondents were asked to review the actions of the authorities in the countries of origin and countries of destination, indicating in both cases, suggestions for the improvement of administrative procedures. A number of issues regarding the problems they encountered when contacting the authorities of the three countries were common to all groups. Concerns related to the need for more information on bureaucratic procedures, the labour market, documentation, among others, were also mentioned by the two groups of immigrants.

Regarding what could be done by the Brazilian government for immigrants, foreigners living in the country were unanimous in indicating the need for more information, as well as the reduction and simplification of administrative procedures. Brazilians living abroad point out the limited access to information at the time of departure and the lack of support from the Brazilian authorities in other countries. However, such views vary according to the length of stay abroad; those who have recently immigrated are more critical. Those who have been living abroad for several years point out real progress and improvements in the services offered by the Brazilian government to its citizens.

Brazilian immigrants in Portugal recognize the services provided by the local authorities, but still complain about the level of bureaucracy. Portuguese citizens interviewed in Brazil have no clear position as to how to obtain more effective support, other than improvements in access to information.



Brazilians living in Spain report difficulties in getting in contact with local authorities and a lack of information. In contrast to Portugal, the number of NGOs that contribute to the dissemination of information is very limited, and again, getting in contact with the Brazilian consular authorities was identified as a problem. The Spanish interviewees who moved to Brazil expressed the need for improved services to foreigners in Brazil and indicate that there should be a greater commitment from the Brazilian authorities to try and increase the dialogue aimed at favouring immigrants.

8.2 Recommendations

8.2.1 Research about Brazilian citizens in Spain and Portugal

- Disseminate information in an accessible and attractive format for migrants, before their departure from Brazil and after their arrival in Portugal, in order to eventually improve the access of Brazilians to the set of existing rights in that country. This is a recommendation that also applies to the case of Brazilian immigration to Spain.
- Improve access to information about the rights of Brazilian immigrants to potential employers in the service and management sectors and to public service employees, such as airport services, immigration and education, health and social care.
- Expedite the removal of obstacles to legal migration to reduce the incidence of immigrants entering as tourists and later becoming illegal residents before their regularization. This involves improving accessibility to information about the jobs available to Brazilians in both countries. However, it is still recommended, in both countries, with a greater emphasis on Spain, to reduce bureaucracy and processing times for regularization procedures for those who are already working irregularly.
- Disseminate the existing anti-discrimination laws and encourage immigrants to gather evidence and report discriminatory practices. This recommendation can be implemented both in Spain and in Portugal, by strengthening existing associations of Brazilian immigrants with legal and communication advices from the governments of the countries of origin and destination.
- Improve, in the case of Spain, the channels of bilateral dialogue with Brazil in regards to the mobility of people between the two countries. This initiative is necessary so that the legislation on immigrants' rights is put into practice.
- Continue the approximation of the Brazilian Consulate authorities and other entities working in the field of international migration with the Brazilian communities in the world and the social networks that stay in Brazil and continue to grow with the return of immigrants. Such a measure could contribute to widen the disclosure of information to prospective emigrants.
- Improve the physical spaces and services provided by the Brazilian Consulates in Europe, especially in Portugal and Spain.
- Speed up, in all three countries, the recognition of diplomas obtained in Brazil, Portugal and Spain, through actions that promote agreements between the three governments.



- Produce information campaigns conducive to the socioeconomic and cultural profiles of migrants, to highlight the benefits of planned and legal migration, while discouraging irregular migration.
- Stimulate the networks that protect and guarantee the rights of children and adolescents to assure the responsibility of migrant parents to meet article 33 § 2 of the Statute of the Child and Adolescent (ECA/Brazil, *Estatuto da Criança e do Adolescente*), which deals with the definition of custody in court in exceptional cases where parents are eventually absent.
- Sensitize the Brazilian Secretary of Human Rights of the Presidency of the Republic in order to increase the knowledge of information by the governmental bodies that belong to the system responsible for migration-related rights and their impacts on children and adolescents.
- Encourage the Secretaries of Education from Brazilian municipalities, and states that have high rates of international migration, to introduce and maintain the subjects of international migration, human trafficking and human rights in school curricula.
- Disseminate to communities of Brazilian immigrants abroad, and foreigners in Brazil, information on bilateral agreements between Brazil and countries of the European Union in regards to social security and the portability of social security contributions.

8.2.2 Research about Portuguese and Spanish citizens in Brazil

- Find mechanisms to facilitate the processing of documents for those seeking a work permit in Brazil in the consular sessions abroad, as well as in the Ministry of Labour and Employment and the Ministry of Justice. This was a point raised by immigrants and the Spanish and Portuguese authorities.
- Expedite the mechanisms for the recognition of diplomas and certificates obtained in European institutions. This recommendation was recurrent among foreign immigrants, among Brazilians living abroad and those who had already returned.
- Even though immigrants suggested that they had some knowledge about their rights in Brazil, it appears that this perception is not based on reliable information because the sources mentioned are, in most cases, social networks. There is a need to produce and disseminate informative material dealing with the rights of immigrants towards this specific audience. In this material, information on labour migration and regularization should be included, as well as items dealing with Brazilian legislation, such as the rights of women, children and adolescents and, particularly, about civil unions.
- Include labour unions and professional associations in discussions over the immigration issue in Brazil, expanding the dialogue to include a greater number of stakeholders and seeking bilateral actions that can help foreigners in Brazil, as well as Brazilians living abroad.
- Urgently change Brazilian legislation concerning migration, which is presented as being completely archaic and inadequate for the country to meet the new challenges of international migration.



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