

# Re-thinking approaches to labour migration

## Potential and Gaps in EU Member States' Migration Infrastructures

### Case Study Summary — Portugal



#### KEY MESSAGES

- The Portuguese labour immigration system – until a reform announced in June 2024 – allowed tourists and undocumented migrants to apply for a work permit in the country after having secured a job. This has been by far the most relevant entry pathway for labour immigrants, especially in the agriculture and tourism sectors.
- Seasonal and low-skilled economic sectors, such as agriculture and construction, heavily rely on third-country labour immigrants and face increasing labour shortages, both now and in the future. This is why the most commonly used pathway of entering as a tourist has been relevant. This pathway has had advantages since it has been made less bureaucratic, however protection of undocumented migrants remained an issue. This pathway will no longer exist going forward and it will have to be seen how this impacts sectors that relied on workers that came to Portugal through this possibility to date.
- The June 2024 reform will lead to some significant changes to Portugal's labour immigration system.
- Portugal has recently concluded two bilateral mobility agreements with India and Morocco and one multilateral mobility agreement with the community of Portuguese-speaking countries and intends to simplify visa procedures for these specific countries.
- Further possible improvements in the Portuguese immigration system include operationalising the E-visa platform, enabling automatic recognition of qualifications and skills, empowering the Portuguese Employment Centre and improving the access of immigrants to healthcare, housing and education.

## BACKGROUND AND CONTEXT

Portugal is undergoing significant changes in its society, economy, labour market and migratory trends. On the one hand, the demographic ageing of the country puts pressure on the pension system and contributes to labour shortages. The Portuguese population is among the third oldest in the EU with a median age of 45,8 years (EUROSTAT, 2022).

On the other hand, Portugal receives an increasing number of immigrants. While Portugal has traditionally been characterised by large emigration waves, immigration started to exceed emigration in 2017 and reached its highest number in 2019 (72.725, Migration Observatory, 2021). Labour migrants are essential for the agricultural, tourism, hotel business, restaurant and construction sectors.

More than one out of four immigrants in Portugal are from Brazil (SEF, 2021) and the rest of the immigrant stock in the country consists of European immigrants (from the UK, Italy and France), African Portuguese-speaking immigrants (from Cape Verde and Angola), Eastern Europeans (from Ukraine and Romania), as well as Asian immigrants (from China and India).

### Current and future labour shortages

During lockdowns and travel restrictions linked to the COVID-19 pandemic, several sectors of the Portuguese economy contracted. However, economic growth picked up again in the first half of 2022, with the highest growth rate (6,9%) in the EU in the second trimester (INE, 2022). At the same time, the unemployment rate is at its lowest point in the last twenty years. Only 6,1% of Portuguese between 16 and 74 are unemployed (Banco de Portugal, 2022). Against the backdrop of recovering economic growth and resurgent tourism, Portuguese employers face difficulties to fill their vacancies in the seasonal tourism, restaurant and hotel business sectors. In this context, Portugal lacks 50.000 workers (WTTC, 2022).

Similarly, the labour demand in the agricultural sector is largely seasonal and regional. During the time of harvest, there is a demand for workforce at least three times higher than during the rest of the year. Since Portuguese citizens are not interested in engaging in the physically demanding and low-paid activity, this sector relies heavily on labour migration.

Other sectors with high unfilled labour demand are the construction sector and the industry sector. Nine out of ten employers in the construction sector report labour shortages (Interview partner 1). While the

tourism, hotel business, restaurant and agricultural sectors require short-term seasonal workforce, the construction and industry sectors are in need of long-term employment.

Interviewed researchers, employers and policymakers believe that large-scale immigration will be necessary to fill the increasing labour shortages (Portuguese Ministry of Planning, 2020; interview partners 1, 2, 3, 10, 12, 13, 14, 15). These labour shortages in Portugal are especially related to less qualified labour. The relative majority (27,4%) of job offers in June 2022 is for unqualified workers (IEFP, 2022). In the period 2022–2030, the job openings associated with low-skilled labour demand is twice as high as the EU average (18% of job openings in Portugal vs. 9% EU average; CEDEFOP, 2020). The projected employment growth in Portugal will be well over the EU average: 4,5% employment growth in the years 2022–2026 vs. 1,5% employment growth in the same year in EU27 average (CEDEFOP, 2020). As for employment growth per sector, in the time period between 2022 and 2030, business & other services (1,9%), construction (1,4%) and manufacturing (0,6%) will account for the largest employment growth numbers (CEDEFOP, 2020).

### Labour migration policy in Portugal

Portugal had a quota system between 2001 and 2007, which was based on the yearly “workforce need reports” (Relatório de Oportunidades de Trabalho). In 2007, the yearly reports were dropped, and the quotas based on numbers per economic activity replaced by an “overall quota”. In practice, however, neither the definition of the quotas per economic sector, nor that of the overall quota has had any practical consequences, because “formal quotas were not fulfilled and foreign workers continued to enter irregularly in the Portuguese labour market” (Peixoto, et al., 2009, p. 185).

Immigration in the past has often occurred in an uncontrolled way, with third-country nationals being regularised a posteriori under the regularisation system established by article 88 of the Aliens Act (Peixoto, et al., 2009). In other words, since it is very bureaucratic and cumbersome to receive the work permit in the Portuguese Embassy of the third country, most labour migrants preferred to enter Portugal as a tourist, making use of the in-country regularisation process after having secured a work contract (or the promise of a work contract).

The government announced important changes in June 2024 reforming labour migration pathways to Portugal significantly. The possibility to enter as a tourist is abolished with these new reforms. Going forward, anyone wanting to reside in Portugal must apply for temporary residency at their local Portuguese consulate before arriving in the country. Labour immigration pathways will be streamlined and regrouped, including those for qualified professionals and nationals of the CPLP (the community of Portuguese-speaking countries). A variety of other measures including increased capacity, infrastructure and streamlining of processes are being planned in order to overall improve the Portuguese immigration system and to deal with a high backlog of applications.

### Legal migration pathways

The following described pathways are those that were in effect before the June 2024 reforms. The changes impact on a number of them but were at the time of research not yet fully announced or implemented.

#### Entering as a tourist

Between 2017 and 2021, 113.53 immigrants entered the country as a tourist and obtained the work permit in Portugal from the border police (SEF) after having secured (the promise of) a work contract. This option will no longer be possible going forward.

In practice, immigrants who were using this pathway were also prone to end up in irregular situations, since while waiting to receive the work permit, they did not have full access to social security, to the legal housing market, to Portuguese language courses and to healthcare. From the point of view of the labour market, there were several advantages to this entry pathway. It was less bureaucratic and it was comparatively efficient for employers in the fluctuating agricultural and tourism sectors to directly hire workforce already in the country. In June 2024, the new Portuguese government announced to eliminate this pathway by not allowing regularisation if the immigrant has not entered Portugal with the appropriate visa.

#### Residence Visas

The second important entry pathway is to obtain a visa for study purposes (49.116 immigrants between 2017 and 2021; Reis de Oliveira 2022) and then enter the job market - though technically not a labour migration pathway. The majority of students come from CPLP countries and many of them work part-time in the hotel and restaurant business to finance their studies. 51% are female and 49% are

male, meaning this is the only migration pathway that is not male dominated (Migration Observatory 2021). Importantly, foreigners who came to Portugal to study in higher education have a maximum period of one year to find a job or set up a company after the completion of their studies.

Other significant visa types in the same period 2017-2021 were for the purpose of family reunification (19.412), for retired people and religious reasons (17.257), residence visa to undertake highly qualified professional activity under an employment contract (5.840, 75% men), and the one for regular professional employed activity (5.644, 89% men; Reis de Oliveira 2022).

#### Temporary and seasonal migration

The visas for work in the seasonal sectors of agriculture and tourism - the short-stay visa for seasonal work for a period of 90 days or less and the temporary stay visa for seasonal work for a period exceeding 90 days - are difficult to obtain in practice.

Agricultural and tourism companies note that visa applications at the Portuguese Embassies in third countries take too long and cause uncertainties for human resources planning. While in most cases, companies in the agriculture sector know their labour demand 3-6 months beforehand (for instance in November the employer knows the number of temporary labour immigrants needed for the harvest starting in March), visa application processes might take more than 6 months.

In turn, the schemes that allow for temporary and seasonal labour migration to Portugal, especially in the agricultural sector, often involve illegal migration networks (Informant 2, Informant 7, Informant 13). The COVID-19 pandemic has revealed the extent of the irregular migration phenomenon - including labour exploitation - especially of Asian immigrants in the agricultural sector.

Citizens of some countries, such as Brazil, do not need a visa for entering Portugal as a tourist. Labour migrants who are able to enter Portugal as a tourist do not apply for a seasonal work visa in their country of origin but rather obtain their work visa after arriving and after having secured a job.

#### European legal provisions and their use

Portugal transposes the EU legislation into national law. Most of the Portuguese legislation on asylum is based on EU directives. Portugal has transposed the **Seasonal workers Directive** in its amendment to the Aliens Act Law 102/2017. However, the visas

for seasonal workers, as well as their protection and inclusion into social security and healthcare are not functioning efficiently. In Portugal, the seasonal workers permits under the EU directive were issued for periods of 7-9 months mostly (EMN 2020). While in 2017 and 2018 there were 0 seasonal workers permits issued under this modality in Portugal, the number rose to 2.035 in 2019 (EMN 2020).

As for the **EU Blue Card**, Portugal transposed the EU legislation into national law in 2012. The legal basis of the EU Blue Card for Portugal is Article 121-A paragraph 3 of the Aliens Act. However, it has not been a significant entry pathway to Portugal until now. In 2018, only four EU Blue Cards to Portugal have been issued. In 2020, Portugal was in the group of EU MS who issued and renewed the least EU Blue Cards. Portugal only issued eight blue cards in 2020, while Poland issued 2.251 and Germany even 5.586 EU Blue Cards. In the same year, Portugal only renewed eleven EU Blue Cards, while France renewed as many as 1.765 (SchengenVisaInfoNews 2022).

Portugal also transposed the EU **Single Permit Directive** in 2011. Portugal is among the countries where both the employer and the employee can apply for the single permit. In 2020, Portugal was the fifth state in the EU with the most single permits issued (170.000 in total; 6,3% of all single permits issued by EU countries in 2020) (Eurostat 2021).

Lastly, interviewees (interview partner 6, interview partner 7) mention the great benefit of the **network EURES** for the Portuguese labour market. The collaboration of IEFP with the national employment centres of the other EURES member states has been described as efficient in sharing job offers, communicating labour market needs and recruiting workforce in the EURES partner country (interview partner 15).

### **Policies and schemes targeting highly-skilled workers**

Even though the majority of workforce demand in Portugal is in the low-skilled sectors, there is some demand for qualified workers in the IT, programming and service sectors. Due to an envisioned digitalization process of the Portuguese government, this need might become increasingly important. The Portuguese IT sector pays an average salary only slightly above the minimum wage and is therefore not in a good position to compete with the IT sectors of other industrialised countries.

To attract these highly-skilled individuals, the TECH VISA came into existence in 2019, the Startup visa exists since 2017, and individuals can enter Portugal with the residence visa to undertake a highly qualified professional activity under an employment contract. The TECH VISA is not used as much as an entry pathway to Portugal as other visa types. Between 2019 and 2021, approximately 800 TECH Visas were issued. There is a list of “TECH Visa certified” companies in Portugal, to which citizens from third countries who are over 18 years old and have a bachelor's degree (or high school degree with five years of experience) in specialised technical functions can apply (GrowIn Portugal 2021).

With the Startup Visa, which was introduced in 2017, immigrants who open a business in Portugal have to generate EUR 325.000 turnover per year after the incubation period of five years (GrowIn Portugal 2021). During the application process for the Startup Visa, the quality of the business plan, its likelihood for success and the potential for innovation the start-up can bring will be assessed by the Portuguese Agency for Competitiveness and Innovation (IAPMEI).

The residence visa to undertake a highly qualified professional activity under an employment contract is for scientists in the field of physics, biology, mathematics, medicine, for engineers, for CEOs, private company board members and high-level functionaries of public institutions. The applicant for this visa type needs to have exceptional technical competences, relevant for the secured job contract, which should have a duration of at least one year and the remuneration should be more than 1.5 times national average gross annual salary (Legispédia SEF, n.d.). 4264 visas of this type were issued between 2017 and 2020.

In October 2022, Portugal announced a digital nomad visa and residence permit which will be available for people employed outside of Portugal who are able to provide a contract of employment, tax residency documents and proof of an average monthly income over the past three months equivalent to at least four times the minimum wage in Portugal.

### **Bilateral or special labour agreements and partnerships**

In recent months, the Portuguese government signed three mobility agreements: with **CPLP** in July 2021, with **India** in September 2021, and with **Morocco** in January 2022. In their nature, the agreements with

Morocco and India are bilateral agreements, while the CPLP is a community of nine countries.

While the agreement with India is about mobility in both directions, the agreement with Morocco is only about entry, regularisation and integration of Moroccans in Portugal. The principal objective of the two mobility agreements is to recruit Indian and Moroccan workforce and to address labour shortages in the Portuguese labour market. The key innovation lies in the match-making of Portuguese job offers with Indian and Moroccan job seekers through the collaboration of IEFP (Portuguese Employment Agency) with the Indian and Moroccan employment platforms.

The CPLP mobility agreement is broader in its scope and will have to be complemented by several individual and thematic successor agreements. In July 2022, the Portuguese government proposed simplified visas and entry pathways for CPLP citizens to Portugal. The new legislative package will introduce a work procurement visa, simplify the student visa and allow a special authorisation for remote work in Portugal. The package has been approved by the Portuguese Parliament and has entered into force, although the visa is not currently ready to be issued due to institutional arrangements.

A shift in political landscape might affect the implementation of these mobility agreements and the conclusion of new mobility agreements in the future.

## SUGGESTIONS FOR POSSIBLE FUTURE ADAPTATIONS TO LEGAL MIGRATION POLICY AND MAKING USE OF EXISTING PROVISIONS

### *Expanding and improving the functioning of the digital visa application platform*

The Portuguese Ministry for Foreign Affairs introduced a new E-Visa platform in March 2020. Since that moment, labour immigrants can apply for their work visa (or for a tourist visa) online. A well-functioning E-Visa platform would address several of the current problems in the context of labour immigration to Portugal.

One of the current problems is the large distances that migrants may have to travel to the nearest Portuguese Embassy, which is especially the case

for Asian migrants. Secondly, abuse and exploitation of labour migrants would be addressed by the online platform's improvement of transparency. The relevant ministries and government agencies together could explore the possibility of directly posting job offers or information on labour requirements of economic sectors on the E-Visa platform. Potential immigrants could directly apply to these calls online, upload qualifications and certificates, and thus get the work visa issued in a purposeful manner. This would enhance transparency and the rights of the immigrants as they could see from the beginning what the working conditions are, how high the wage is, etc. This could also be an effective way of matching skills with labour needs, even before arriving in Portugal. It could also help address the issue of irregularity and protection.

The new E-Visa platform is a welcome innovation, however to date it is still not being used by a significant portion of migrants. The entry pathway of entering as a tourist remains by far the dominant pathway. In this context, unless active use and operationalisation of the E-Visa platform is pursued, it could remain a good idea without relevance in practice.

### *Increasing budget and human resources of the Portuguese National Employment Centre (IEFP), in order to ensure its role in the new mobility agreements*

The IEFP has an important role in the recently signed mobility agreements with India and Morocco. IEFP will coordinate job postings and labour needs with the Moroccan National Employment Centre and with the Indian Platform for Jobs and Workforce.

Several interview partners mentioned the positive experience of IEFP collaborating with other European employment centres in the network EURES (Informant 6, Informant 7, Informant 15). Having the direct connection with the national employment centre of another country, which in turn has the information of the workforce and labour market needs of that country, is a powerful tool for recruiting abroad. Applying the working logic of EURES to the relation of IEFP with third countries could be an important puzzle piece for addressing labour shortages in the Portuguese economy with immigration from third countries.

A limitation to this idea, however, is IEFP's lack of resources to manage all of these exchanges and additional responsibilities. In this sense, a budget increase and more human resources for IEFP could help to fully untap the potential of efficiently

communicating and coordinating workforce needs and job offers with third countries.

***Create platforms of frequent, systematic exchange between the relevant ministries, government agencies and representatives of the different economic sectors***

Currently, there is no systematic and sufficient exchange between the relevant governmental agencies and ministries on the one side, and the representatives and business associations of the economic sectors on the other side. Interviewees from sectoral business associations (Interview partner 7, interview partner 14) report that there is the possibility of mentioning needs, problems or obstacles that a sector faces to the relevant ministries, but that there is no sufficient follow-up to these requests.

Setting up platforms for each sector that would bring together officials from relevant ministries, government agencies and representatives of the different economic sectors could help to make the exchange of information more systematic. Each of these sectoral platforms could meet at least every third month and could furthermore have surveys and data collection mechanisms in place to frequently update numbers on labour shortage, as well as to be aware of challenges faced, labour profiles required, etc. These statistics and data could then be systematically shared with the aforementioned public actors of the Portuguese immigration and integration system.

***Promote automatic recognition of academic qualifications and skills of labour migrants***

The list of automatic recognition of academic qualifications does not include institutions, degrees, and qualifications from many of the main countries of origin of labour immigrants in Portugal. Countries such as Angola, Cape Verde, Mozambique, Sao Tome and Principe, Timor-Leste, India, Nepal, Bangladesh and Pakistan, could therefore be integrated into the list of automatic recognition of skills and qualifications.

Next to academic qualifications, professional qualifications obtained in third countries could also be recognised more rapidly. Currently, there is no list of countries eligible for automatic recognition of academic qualifications and professional skills. Creating such a list, in which specific technical and vocational skills issued by certain schools, institutes or companies in third countries were eligible for automatic recognition could help to streamline the recruitment of foreign workers.

***Enquire the possibility of a pilot-project of immigrant work in the agricultural sector***

New working methods for immigrants working in the agricultural sector in Portugal could be developed, in order to address two of the main problems that come with seasonal immigration to the Portuguese agricultural sector: firstly, the difficulty for employers to recruit the necessary workforce from abroad, and secondly, the fact that immigrants in this sector frequently stay in vulnerable, irregular situations. Since agriculture is a seasonal work, there should be better models of circulating the immigrant from one harvest to the next one throughout the country and engaging them in different types of harvests of different crops and products, which take place at different times of the year. Portuguese companies who are involved in the production of these crops have immense difficulties in recruiting the workforce for the harvests. Instead of having this workforce come for one of these harvests to Portugal and stay for one to three months only, there could be a major coordination between the companies to circulate the immigrant workforce.

***Improve access of immigrants to social security, the housing market, and language courses***

Next to the abuse and exploitation of undocumented labour migrants, the difficulty of accessing social security, healthcare, the housing market and language courses exacerbates their vulnerability. While the points about language courses and access to training and the education system are more related to successful integration of the immigrant, healthcare and the housing market are fundamental and essential needs for migrant welfare. Facilitating easy access, for example by dropping requirements like needing a residence permit or a job contract to be treated at the hospital and to be able to officially rent a room or an apartment would improve the situation of labour migrants in irregularity.

***Considerations regarding collaboration with Talent Partnership priority countries***

Among the proposed Talent Partnership countries, Morocco is the most relevant one for Portugal. There has been a mobility agreement concluded, which indicates that Portugal counts on Moroccan labour immigrants. Immigrants from other Talent Partnership countries are small in numbers. Portugal favours the Portuguese-speaking African countries: Angola, Cape Verde, Guinea-Bissau, Equatorial Guinea, Mozambique and Sao Tome and Principe.

There is a growing number of Pakistani and Bangladeshi immigrants, especially in the agriculture sector. Since immigrants from these two countries at times work and live in Portugal without work permits, an increased collaboration, for example bilateral mobility agreements could improve the situation of these immigrants. At the same time, collaboration with those countries might help to address labour market needs in the agricultural, but also in the IT sector. The mobility agreement with India could be used as a template and could be replicated with India's neighbouring countries Pakistan and Bangladesh.

***Include employer's federations, labour unions, migrant organisations and civil society organisations in the institutional restructuring***

On 29 October 2023, SEF ceased to exist and the Agency for Integration, Migration and Asylum (AIMA) took over SEF's competences regarding documentation, integration and regularisation. Criminal investigation, legal control and deportation competences will be transferred to the police. In practice, SEF will be merged with ACM to form AIMA. This constitutes a major institutional reform of the Portuguese immigration and integration system.

While the restructuring process is slowed down by the political developments, which resulted in early elections in March 2024, different interviewees (interview partner 5; interview partner 6) said they would like a more participatory process, in which employer's federations, labour unions, migrant organisations and civil society organisations, are consulted and bring the points of views of migrants and of employers interested in hiring labour immigrants to the table. At the same time, a close participation of these organisations will also allow them to circulate the information to immigrants and employers. A better representation of migrants and employers in the institutional restructuring, and a better circulation of information of the new laws, rights and processes, will make sure that the reformed immigration and integration system works for all.



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