

CORONAVÍRUS | COVID-19

PRACTICAL GUIDE QUESTIONS & ANSWERS

Order n. ° 3863-B/2020, of 27 of March

(determines the management of services provided and scheduling of appointments so as to safeguard unequivocally the rights of all foreign citizens with pending cases before the Immigration and Borders Service - SEF, in the context of COVID-19).

Order n.º 3863-B/2020, of 27 of March, established that the stay in Portugal of foreign citizens with applications pending under Law n.º 23/2007, of 4 of July, altered by Law n.º 28/2019, of 29 of March, Law n.º 26/2018, of 5 of July, Law n.º 102/2017, of 28 of August, Law n.º 59/2017, of 31 of July, Law n.º 63/2015, of 30 of June, Law n.º 56/2015, of 23 of June, Law n.º 29/2012, of 9 of August (legal framework for the entry, stay, exit or removal of foreigners from national territory, also designated by Foreigners' Law or Immigration Law) or under Law n.º 27/2008, of 30 of June, altered by Law n.º 27/2014, of 5 of May (Asylum Law) to be considered legal as long as they have submitted their applications to SEF, until 18 of March, date when the National State of Emergency was declared.

1. To whom does the Order apply?

To foreign citizens with pending cases before SEF under the Foreigners' Law or under the Asylum Law, at the date when the National State of Emergency was declared – 18/03/2020.

2. Will SEF attribute a residence permit to these foreign citizens? Is it necessary to submit a request?

No. During the period established by the Order, SEF will not issue any residence permits. Citizens will only need to prove that they have a pending case at SEF. This proof verifies that the stay of the foreign citizen in national territory is legal during the period of 27 of March until 30 of June, and can be presented in the various public services to access the relevant rights.

3. Which documents can be used to prove an existing pending case at SEF?

- Document with expression of interest or an application issued by the registry platforms in use in SEF (articles 88.º, n.º 2, 89.º, n.º 2 and 90.º-A);
- Document scheduling an appointment at SEF to request for concession or renovation of a residence permit or an acknowledgement of receipt of the application, either under the general scheme or under the exceptional arrangements;
- Document proving the submission of a request for asylum.

4. How can foreign citizens prove the date of request for concession or renovation of a residence permit, the submission of an expression of interest before SEF or that the date the appointment was made was prior to 18 of March, if the documents don't show the date?

In order to benefit from the rights available, and considering the variety of documents presented (SEF receipts given in person, appointment scheduling receipts at SEF, documents extracted from the registry of expressions of interest electronic platform under articles 88.º, n.º 2, 89.º, n.º 2 and 90.º-A – SAPA – and the electronic platform for the registry of applications for investment residence permit - ARI), foreign citizens must present to the public services documents with clear information on the date the applications were submitted, the date the requests with expression of interest or the scheduling of appointments. These documents must have an issued date prior or including the 18 of March. To note that since 6 of April, a new functionality in the SAPA and ARI portals is available,

that allows foreign citizens to generate, consult and download a registry certificate, which can be used as proof to public and private entities of having a pending case before SEF.

5. If foreign citizens do not have the documents can they ask for a duplicate to be issued?

In the case of presenting expressions of interest, the citizens can obtain proof of its submission in the SAPA Portal, going to SEF's website – available in «<https://sapa.sef.pt/an/default>», login with personal information (email and password).

If requesting a duplicate of receipts for concession and of renovation of a residence permit or application for asylum, as well as a scheduling appointment receipt, citizens must contact SEF's Contact Centre, via telephone (landline): (+351) 808 202 653 or (mobile): pt(+351) 808 962 690, or by sending an email with the request to «gricrp.cc@sef.pt».

6. And what is the situation for foreign citizens with expired documents? Is their stay in Portugal also considered legal?

Their stay in Portugal is considered legal until 30 of June of 2020, date until which all documents and visas related to the permanency in national territory have expired after 24 of February are considered valid.

7. Are there other expired documents accepted by the authorities?

Yes. Among those documents expired after 24 of February that are deemed valid by public authorities in all their legal effects are also, for example, driver's licence, certificates and official documents issued by the civil and criminal identification registry services (birth certificates, marriage certificates, criminal record certificates, in absentia certificates).

8. What rights can foreign citizens benefit from?

Foreign citizens that:

i) have pending cases before SEF, and can prove it, or,

ii) have expired documents after 24 of February,

can benefit from the following rights:

- obtaining a user number for access to the National Health Service or other health care rights;
- access to social support benefits;
- entering into rental agreements;
- entering into employment contracts;
- opening of bank accounts;
- procurement for essential public services.

9. How can foreign citizens access these rights?

For more information on how to access public services the following websites of the respective entities can be consulted:

- Health – «www.sns.gov.pt/entidades-de-saude»
- Social Security - «www.seg-social.pt/atendimento-por-marcao»
- IEFP, IP - «www.apcmc.pt/legislacao/iefp-marcao-online-de-atendimento/»

10. How can foreign citizens obtain a user number, access the National Health Service or other rights concerning health support?

Foreign citizens included under the Order must present their request to the health units and/or Regional Health Administration, via different forms of communication: email or in-person, although preference should be given to making the request at a distance (via email/telephone) in order to avoid physically going to the services considering the contamination risks of Covid-19 (vide Circular Letter e Handbook on Procedures attached).

11. If a foreign citizen is in Portugal in an irregular permanency situation, since he/she does not have a pending case before SEF dating to before 18 of March, does he or she have the right to health care?

Under the law, foreign citizens that do not have a residence permit and/or do not have other pending cases before SEF before the stipulated date, i.e. foreign citizens in an irregular situation, and as long as, for the due effect, proceed to the presentation of a residence certificate from their area of residence attesting to their residence in national territory for more than 90 days, will have the right to health care, with a waiver of payment of the user's fee, in situations deemed dangerous for public health, namely:

- transmissible diseases that represent a danger or threat to public health (**Infection by SARS-Cov2 – COVID-19**, tuberculosis, aids, for example);
- urgent and vital health care;
- maternal, child care and reproductive health, namely access to family planning appointments, voluntary interruption of pregnancy, monitoring and vigilance of women during pregnancy, childbirth and puerperium and health care given to new-born children;
- health care for minors residing in Portugal;
- vaccination, in accordance with the National Vaccination Program in force;
- citizens in a situation of social exclusion or experiencing economic difficulties in accordance with the supporting document issued by the competent entities. (Order n.º 25360/2001, of 16/11 and n.º 7 da Informativa Circular n.º 12/DQS/DMD, of 07/05)

12. If the documents proving a pending case before SEF gives to right to enter into an employment contract, does it mean that foreign citizens can sign up for employment at the Employment and Vocational Institute (IEFP, IP) and have access to social support benefits?

Yes. Third-country nationals with pending cases before SEF under the request for securities that allow for the exercise of a subordinate professional activity, i.e., that present a document with the

expression of interest, a request issued in SEF's platform or proof of scheduling an appointment for the concession of a residence permit, can sign up for employment, and may request unemployment benefits and other social support.

The referred documents will be used as the certificate that allows for the exercise of a subordinate professional activity during the state of emergency and until the assessment of the pending request is resumed/rescheduled at a later date by SEF.

13. Until when will foreign citizens maintain their registration in IEF, IP? What happens if SEF denies the request for concession of a residence permit for the exercise of a subordinate professional activity?

In order to keep the registration in IEF, IP, foreign citizens must present the residence permit to IEF, IP, until 8 workdays after being issued.

The denial of the request for concession of a residence permit for the exercise of a subordinate professional activity by the competent authorities determines the termination of the registration in IEF, IP.

14. Can foreign citizens who are higher education students and have an appointment scheduled at SEF to request a residence permit for higher education students sign up for employment?

Under the law, higher education students (in accordance with n.º 2 of art. 97.º of Law n.º 23/2007, of 4/07, in its present version, and art. 58.º of Regulatory Decree n.º 84/2007, of 5/11, in its present version) can only exercise a professional activity, subordinate or independent, after notifying SEF and submitting the work contract celebrated under the terms of the law or declaration of initiation of activity from the fiscal administration, as well as proof of registration in social security, with the request for substitution of the residence permit. In a regular situation, IEF, IP would only be able to accept the third-country national student's registration with the new residence permit, and IEF, IP would not be able to support the student in searching for employment and in finding a work contract. Order n.º 3863-B/2020, of 27/03, does not alter this situation, considering that the rights extended to third-country nationals do not go beyond the rights they would have, if in possession of the respective permit, and in the case of a student residence permit it only allows working under the described situation.

As such, in this exceptional situation, the higher education student can only sign up for employment in the cases in which the process pending refers to the notification to SEF and the substitution request of the permit to allow the exercise of a professional activity, under the previously referred terms of the law.

15. In considering foreign citizens to be in a regular situation in national territory until 30 of June and that they can access specific rights, does it mean that SEF will not evaluate the expressions of interest and requests for concession or renewal of residence permits, issuing at a later date and automatically the residence permits?

No. SEF will continue to evaluate all pending processes in order to decide on the concession or renewal of residence permits, checking if the foreign citizens present all the general and specific necessary conditions, as well as all the documents legally required for this effect.

16. Do the rights extended to foreign citizens by Order n.º 3863-B/2020, of 27/03 have an implementation deadline?

Yes, the rights are applicable between 27 of March and 30 of June.

Note: Within the framework of health, unless a new measure altering the deadline for implementation comes into force, the user numbers distributed under Order n.º 3863-B/2020, will be deemed inactive after a re-evaluation process on 01/07/2020. Those that present a residence permit or that SEF can indicate an existing approval to the residence permit request will remain active.

17. Do foreign citizens loose access to certain rights extended during this period, such as unemployment benefits for example, after 30 of June?

It is the understanding of IEF, IP that this "regularisation" that allow access to public services by foreign citizens with pending cases before SEF does not mean that after 01/07/2020 they loose these rights. In the specific case of unemployment benefits, a foreign citizen that presents, for example, an expression of interest under n.º 2 or article 88.º of the Foreigners' Law will be registered and the unemployment benefit can be requested for the normal period stipulated as if already in possession of a Residence Permit and, in this case, will continue to receive the support for the n.º of days/months corresponding to the discounts deducted even after this exceptional period (30/06/2020) and, as such, during the period in which SEF will make a new appointment.

18. What happens to the appointments already scheduled by SEF?

The appointments foreseen in the electronic platform SAPA and other systems in use by SEF have been suspended. All appointments scheduled until 27 of March of 2020 will be rescheduled from 1 of July 2020, in chronological order, guaranteeing equal treatment all foreign citizens.

19. Does SEF continue to provide face-to-face service?

Face-to-face service by SEF has been suspended since 30 of March, in-person appointments will be provided, under the decision of SEF's Regional Directors, only for cases considered urgent for:

- Citizens who need to travel or who prove the urgent and unavoidable need to leave the national territory for unexpected and unavoidable reasons;
- Citizens whose documents have been stolen, robbed or lost.

20. If a foreign citizen needs face-to-face support in order to submit an urgent request to SEF what should he/she do?

He/She should request an appointment by email «gricrp.cc@sef.pt» or via SEF's Contact Centre and SEF will provide the support.

21. Which SEF services are providing support for urgent cases?

The services opened for support exclusive of SEF, or in other cases in articulation with the managing entities, are the following:

- Regional Directorate for Algarve;
- Regional Delegation for Portimão;
- Regional Directorate for Açores;
- Regional Directorate for Madeira;
- Regional Delegation for Porto Santo;
- Regional Directorate for Lisbon, Tagus Valley and the Alentejo;
- Regional Delegation for Setúbal;
- Citizen Shop in Coimbra;
- Citizen Shop in Aveiro;
- National Support Centre for the Integration of Migrants in Porto (CNAIM Norte);
- Asylum and Refugee Cabinet.

22. Can refugee citizens continue to submit their requests for asylum?

Yes. The Asylum and Refugee Cabinet (GAR), located at Rua Passos Manuel, n.º 40, 1169-089 Lisbon, continues to be open in order to allow for the presentation and registration of new requests for international protection.

23. Does the Immigration and Borders Service continue to issue passports?

For urgent situations, SEF will only consider issuing passports in urgent and unavoidable cases or other circumstances duly proven, keeping open the Passport shops in the Porto and Lisbon Airports. Requests from foreign citizens should be sent via SEF's Contact Centre or email «griocrp.cc@sef.pt».

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