Decree-Law nº 83/2000, de 11 May

Complying with Community rules adopted in the resolution passed by the representatives of the member States of the European Community at the Council meeting held on 23 June 1981 and later complementary resolutions, means that a new model of passport must be adopted that is adjusted, both in its physical form and in its use with new information technology, to security requirements defined internationally.

Experience gained over the decade, as a result of applying Decree-Law nº 438/88, of 29 November, with the amendment introduced by Decree-Law nº 267/89, of 18 August, has led to identifying existing problems and shortcomings. Therefore the aim of the present law is to pinpoint some of the concepts and arrange the articles more systematically, in this way guaranteeing a more coherent system and introducing new rules on granting passports. The aim of these changes is to achieve more and better security in issuing passports.

To this end the passport is configured as an individual document that will help to clearly identify its bearer and avoid the difficulties created by collective passports when those included in them wish to travel alone.

Requesting a passport at a place that is not an issuing agent will be regulated to help meet the aim of reducing the bureaucracy of the process with the security requirements demanded for this document.

The security conditions to be observed by the passport are also included. Firstly, a form of passport is adopted that can be read optically. This means that no additional entries can be put in the passport and the conditions are laid down for issuing passports for minors.

Despite security factors, that may not be, and should not be, overlooked, solutions are being sought to reduce bureaucracy such as returning passports by registered mail and gathering the information required using an external service.

Situations are also covered in which the applicant is physically handicapped due to illness, making it impossible to get to passport issuing centres.

The Foreign Nationals and Border Service of the Ministry of Home Affairs (Serviço de Estrangeiros e Fronteiras do Ministério da Administração Interna - SEF/MAI) is given competency to manage the Data Base for Issuing Passports (BADEP), with a decentralized data collection system at issuing centres, and centralisation in a data base housed in SEF/MAI.

Lastly, provisions are planned for applying sanctions adequate for controlling the judicial issues to be protected under cover of this law.

The opinion of the Autonomous Regions was heard and, in the terms legally stipulated, the National Commission for Data Protection (Comissão Nacional de Protecção de Dados - CNPD).

Hence:

In the terms of sub-paragraph a) of nº 1 of Article 198 of the Constitution of the Portuguese Republic, the Government decrees that the following be come law:

CHAPTER I General provisions
CHAPTER II Categories of passport
CHAPTER III Protection of personal data
CHAPTER IV Provisions on sanctions
CHAPTER V Transitional and final provisions

CHAPTER I

General provisions

Article 1.º

Object, function and general principles

The passport is an individual travel document that allows the bearer to enter and leave Portugal, as well as the territory of others States that recognise it for this purpose.

For a passport to be granted the principle of legality is observed, as well as the principles of authenticity, veracity and reliability of the information in it.

The passport is the property of the Portuguese State, and its violation or incorrect use is punishable by law.

Article 2.º

Categories

The passport may fall into one of the following categories:

Common;
Diplomatic; Special; For foreigners.
The passport may be replaced, in the conditions envisaged in this law, by a single travel permit.

Article 3.º

Identification

The optically read, uniform model passport is a booklet with 32 numbered pages, identified by:

A letter and a six-digit number printed on the first page and on the information page;
A perforated combination on the remaining pages, including the inside cover.

Article 4.º

Entries and validity period

No entries may be added after the passport has been issued.
The validity period of the passport complies with the ruling for each one of the categories, and may not be extended.

Article 5.º

Conditions of validity

The passport is only valid if all the spaces used for entering information have been filled in, or made unfit for use, and no amendments, deletions or between-line entries of any nature are allowed.
The signature of the bearer of the passport must also be entered, unless in the space indicated the issuing body mentions that the holder does not know how to, or cannot, sign

Article 6.º

Characteristics and control of authenticity

This horizontal model of passport may be read optically using adequate technical means, and the personal information, the photograph and signature of the bearer are digitally entered on a laminated page, covered by a security skin.

Article 7.º

Requisition and control of use

The requisition for printed passports and the control of the use of the same lies with:
The Foreign Ministry, for the passports issued by the bodies under its control;
The Ministry of Home Affairs, for the remainder.
The requisition for printed forms for single travel permits and the control of the use of the same lies with the Foreign Ministry.
The issuing agents submit their requisitions to the Secretary-General of the Foreign Ministry or to the Secretary-General of the Ministry of Home Affairs, depending on whether the forms are for the documents referred to in sub-paragraphs a) or b) of n° 1 and n° 2 of this article.

Article 8.º

Model of forms and quality control

The model of printed passports and that of single travel permits are approved by joint Ordinance of the Ministers of Foreign Affairs and of Home Affairs.
The forms referred to in this article are the exclusive legal property of the National Printing Office and Mint, which is responsible for the respective quality control.

Article 9.º
Model of requests

The models for the request forms and declarations for obtaining passports are approved in a joint ordinance from the Ministers of Foreign Affairs and of Home Affairs. The models referred to in this article are obligatory and they are the exclusive legal property of the National Printing Office-National Mint.

Article 10.º

Issuing costs

Holders of diplomatic and special passports are exempt from any issuing charge and the cost of the respective forms is paid by the services to which these holders belong. In Portugal, the charge for a common passport is established in a joint ordinance from the Ministers of Finance and of Home Affairs. Abroad, charges are those laid down in the Table of Consular Fees. Issuing charges form the income that covers costs, with 80% of the profits going to the issuing agents and 20% to the body responsible for the database for issuing passports (BADEP). In addition to the charges referred to in this article, are those referred to in legislation dealing specifically with the Social Assistance Fund. Returns on the sale of printed passports and the single travel permit, issued by the consular services, become income for the State. Returns on issuing and additional charges charged by third parties will be returned using the form for the purpose by the 10th day of the month following their receipt.

Article 11.º

Dispatch of passport

The passport may be sent to the bearer by registered mail against prior payment of postal and packaging costs.

Article 12.º

Complaints

A new passport will be issued when a complaint from the party concerned is accepted when the justification is an error made by the issuing services. The passport issue envisaged in the previous number is free of charge, providing that the complaint has been made within 30 days counting from the date of delivery of the passport.

Article 13.º

Subsidiary application

The rules established for the common passport are subsidiarily applicable to the other categories of passport.

CHAPTER II

Categories of passport

SECTION I

Common passport

Article 14.º

Holders of Portuguese nationality have the right to hold a common passport.

Article 15.º
Competency to grant and issue

The following entities are competent to grant and issue the common passport, although they may delegate or sub-delegates this competence:

Civil governors;
Regional governments, through the competent regional secretary, in the terms of the respective laws on formalities and administration;
The Portuguese consular authorities designated by ruling of the Minister of Foreign Affairs.

Article 16.º

Submission of application

The applicant applies for a common passport by filling in the specific form for this purpose legibly, without alterations, deletions or between-line entries, bearing the usual signature of the applicant.

The application for a common passport for a minor, who is unable to apply or in some way handicapped, is undersigned and submitted by whoever legally has paternal custody, guardianship or court appointed guardianship.

In the cases referred to in the previous number, the signature of the holder of the common passport should always be entered whenever possible.

Article 17.º

External service

Information required for issuing a common passport may be collected by going to the location of the applicant, if the latter can produce sufficient proof of illness preventing the applicant from going to the issuing services independently.

An added charge is made for using the external service, and the applicant pays the transport costs to his or her whereabouts.

Article 18.º

Proof of identity

The applicant for a common passport should give proof of identity by showing the identity card of a Portuguese citizen, which is returned immediately it has been checked.

A birth certificate is also required as proof of identity for a minor under the age of 10.

Article 19.º

Information accompanying application

The application for a common passport is accompanied by the following information:

Two recent, full-face, passport-type photographs of the applicant, in colour on a plain background, in good condition for identification and the correct size for the passport model;
The specific form duly filled in.

Article 20.º

Additional proof

Whenever there is any doubt as to whether the information on bearer identification given by the applicant is correct, additional proof may be requested by the issuing services.

Article 21.º

Obstacles to issuing passport

A common passport may not be issued when any of the following situations occur regarding the applicant:
Opposition by either of the parents, in the case of an under-age minor, until this has been judicially decided or the respective paternal custody removed; 
A decision from the judicial bodies preventing a passport being granted; 
A failure to pay charges owed to the State, as referred to in n° 4 of Article 26.

**Article 22.º**

**Issuing times**

Eighty days counting from submission of the application duly accompanied by proof are required to issue a common passport.
The issuing agents should, whenever possible, issue the passport in less time than that envisaged in the previous number.
In emergency cases, issuing agents may, at the request of the individual, issue the passport in less time than that envisaged in n° 1, charging, in addition, an emergency rate that appears on the table to be approved by the joint ordinance envisaged in n° 2 of Article 10 of this law.
When the individual is not notified of the decision made on a request made within a period of 15 working days, counting from the date of submission, the application is considered rejected, for the purposes of judicial objection, in the terms of n° 1 of this article.

**Article 23.º**

**Passport for minors**

Minors, when they are not accompanied by whoever has paternal custody, may only enter and leave Portugal by showing authorisation for the purpose.
The authorisation referred to in the previous number should appear in a written document, dated and with the signature of whoever has paternal custody, recognised by a notary, granting the power for third parties, duly identified, to accompany the minor.
The authorisation may be used on as many occasions as required within the validity period of the document, which, however, may not exceed one calendar year.
If no other deadline is mentioned, authorisation is valid for six months, counting from the respective date.

**Article 24.º**

**Validity and issue of new passport**

The common passport is valid for a period of 10 years if, on the date of issue, its holder is 25 years of age or over.
In the case of those under the age of 25, the validity of the common passport is for five years, and for minors under the age of five the validity of the passport is for:
Two years for minors two years of age or younger;
Three years, for minors over the age of two but under the age of five.
A new common passport may be requested because the validity period has expired, because the identification information on the holder is out of date, or because any of the situations described in Article 25 of this law are found to exist.
The application for a new common passport due to the validity expiring may be requested in the six months prior to or, in exceptional cases that are duly justified, in the year preceding the respective expiry.
A new common passport is granted against delivery of the previous passport.

**Article 25.º**

**Replacement of valid passport**

A new common passport issued to an individual who is the bearer of a valid passport is possible, in exceptional situations, in the following cases:
When the pages in the passport used for visas have been completely filled;
When the passport is in a poor state or not usable, once checked by the issuing services;
In cases of loss, destruction or theft, declared by the bearer;
In cases where there is a change in the information that identifies the bearer of the passport.
In the situations referred to in sub-paragraph c) of the previous number, the applicant submits a declaration, on that person's honour, made on a specific form, justifying the application and undertaking not to use the replacement passport and to return it to the issuing services if the original passport is found.
Should there be any doubt as to the justification given for issuing a replacement passport, the issuing bodies may ask for additional proof. Whenever a new passport is issued in the cases envisaged in n°1, this circumstance is mentioned in it, indicating the service that issued the previous passport, as well as its number and date of issue.

Article 26.º

Canceling and apprehending passport

The holder of a passport that has been lost, destroyed or stolen should immediately notify the issuing agent of this fact for the purposes of canceling and apprehending the passport. The legal representatives of minors and those in some way handicapped may request the issuing body to cancel and apprehend the passport issued on their behalf. The issuing body will request the border authorities to apprehend the passport referred to in n°s 1 and 2 of this article. The consular authorities, when requested to pay the cost of repatriating nationals bearing a passport, will withhold the passport and return it only at the destination after the cost incurred by the State has been repaid. In the situation envisaged in the previous number, the person being repatriated will return to Portugal supplied with a single travel permit.

Article 27.º

Granting a second passport

In exceptional circumstances that are duly justified, a second passport may be granted to the individual bearer of a passport that is still valid, when, after careful appraisal of the situation, it is concluded that the issue of the passport is in the national interest or in the legitimate interest of the applicant, arising from the relations between third countries. The competent authority will ensure that the second passport is only used in the situations that gave rise to it being granted.

Article 28.º

Expiry of passport

The loss of Portuguese nationality by a person who has been issued with a common passport will determine the expiry of this document. Notification of loss of Portuguese nationality must be made by the Central Registry to the Foreign Nationals and Borders Service of the Ministry of Home Affairs (SEF/MAI) by the eighth day of the month following the respective registration.

SECTION II

Diplomatic passport

Article 29.º

Applicable regime

Granting, issuing and use of diplomatic passports are regulated by specific legislation, without prejudice to the ruling in Article 13.

SECTION III

Special passport

Article 30.º

Holders

The following have the right to a special passport:

Members of the Council of State;
Members of the Portuguese parliament;
Magistrates of the High Courts;
Members of the Regional Assemblies;
Mayors of municipal councils;
Other persons, under cover of special law.
The following may also be the bearers of a special passport:
Civil or military entities proposed by the President of the Republic;
Persons expressly chosen by the Portuguese State for a public service mission, if its nature does not lead to granting a diplomatic passport;
Staff of the Ministry of Foreign Affairs when on a public service mission, and who do not have the right to a diplomatic passport;
Vice-consuls and honorary consuls, when their nationality is Portuguese.
Granting a special passport may be extended to the spouse and children under age, when they are traveling in the company of its holder.

Article 31.º
Concession
The following are competent to grant the special passport, although they may delegate or sub-delegate this competency;
The Minister of Foreign Affairs, whenever situations occur outside Portugal or in the cases referred to in sub-paragraphs c) and d) of n° 2 and n° 3 of the previous article;
The Minister of Home Affairs;
The Presidents of the Regional Governments, when the passport is for persons in the respective Autonomous Regions.
The passport is granted on requisition or justified proposal, depending on whether the holder is in regular public office or in other situations.
The proposal for granting the passport should be accompanied by a document proving the situation or public service or mission with which the holder is charged, indicating its likely duration.

Article 32.º
Issue
The following are competent to issue the special passport:
The services and embassies of Portugal appointed by ruling of the Minister of Foreign Affairs;
The General Secretariat of the Ministry of Home Affairs (SEF/MAI);
The services designated by the Regional Governments.
The General Secretariat of the Foreign Ministry should be notified immediately of the issue of a special passport by the embassies

Article 33.º
Use
The special passport should only be used when its holder is traveling in the quality that justifies granting the passport.

Article 34.º
Validity
The special passport is valid for the period fixed in it by the authority competent to grant it, in agreement with the nature and probable duration of the mission or the situation that permits it being granted, but never for a period of longer than four years.
The special passport expires whenever its holder loses the position or ceases the mission or the situation that determined the respective issue.
Expiry of the special passport means that the requesting service or the proponent must immediately apprehend the passport and return it to the issuing body.

SECTION IV
Passport for foreigners
Article 35.º

Holders

The following may be holders of a passport for foreigners:

- Individuals who, authorised to reside in Portugal, are stateless or nationals of countries without diplomatic or consular representation in Portugal or who demonstrate, unequivocally, that they cannot obtain any other passport;
- Foreign individuals who, without their own passport, seek Portuguese consular or diplomatic protection abroad under cover of agreements for consular co-operation signed between Portugal and their country of origin;
- Foreign individuals who are outside Portugal when exceptional reasons recommend granting the passport to foreigners.

Article 36.º

Concession

The passport for foreigners is granted by the Minister of Home Affairs, who may delegate or subdelegate this competence.

The situations considered in sub-paragraphs b) and c) of the previous article are decided at the proposal of the consular authority that is territorially competent, once the opinion of SEF/MAI has been given.

Article 37.º

Issue

Issuing a passport to foreigners is the responsibility of:

In Portugal, SEF/MAI;
Abroad, the consular authorities.

Article 38.º

Validity

The passport for foreigners is valid for a maximum of two years.

The passport referred to in the previous number, when issued in Portugal, may guarantee or prevent the right to return to Portugal, depending on the entry made in it.

SECTION V

Single travel permit

Article 39.º

Concession and issue

The single travel permit is issued to individuals with Portuguese nationality, duly confirmed, who find themselves abroad without documents, and for whom, due to urgency, there is no time to provide sufficient proof of identification.

The single travel permit is granted and issued by the consular authorities.

Article 40.º

Validity

The single travel permit is issued with validity restricted to the time required to return to Portugal.

CHAPTER III
Protection of personal data

SECTION I

Data base

Article 41.

Purpose and organization of data base

The purpose of BADEP is to organise the information required to control the granting and issue of passports in their different categories, and to up-date this same information. BADEP is governed by the principles of security and information control, ensuring levels of access, modification, addition or removal of data, as well as ways of communicating this data.

Article 42.

Entity responsible for BADEP

SEF/MAI is the body responsible for BADEP. BADEP complies with legally specified technical specifications for the protection of digitalised personal data. It is the responsibility of the director of SEF/MAI to ensure the right of the respective holders to information and access to data, correction of mistakes, filling in omissions, removing data incorrectly registered, as well as monitoring that information search or communication respects the conditions determined legally. It is the responsibility of the director of SEF/MAI to decide on complaints made regarding access to personal information contained therein, a higher appeal to his decision being permitted, without prejudice to the actual competence of the National Commission for Data Protection in this area.

Article 43.

Confidentiality

Those persons who in exercising their duties come in contact with the personal data registered in BADEP must maintain professional secrecy, in the terms of Article 17 of Law n° 67/98, of 26 October.

CHAPTER IV

Provisions on sanctions

Article 44.

Violation of rules on files

Violating the regulations on computerised files used for issuing a passport is punished in the terms of Articles 44 to 49 of Law n° 67/98, of 26 October. Whoever does not comply with the obligations on data protection envisaged in Article 43 of Law n° 67/98, of 26 October, is punished in the terms envisaged therein.

Article 45.

Incorrect use of passport

Incorrect use of the replacement passport, of the second passport or special passport is a punishable administrative offence carrying a fine of 50,000 to 150,000
In the case of an administrative offense opened in any of the cases envisaged in the previous number, the additional sanction of apprehending the passport may also be applied.

Article 46.
Non-conforming passports

Passports that do not conform to the law are apprehended by the competent authorities.

Article 47.º

Obtaining and fraudulent use of document

Making false statements to obtain a passport, falsifying a passport or the respective specific forms, the use of a falsified passport, as well as the use of another person’s passport, are punished as laid down in the Penal Code.

Article 48.º

Competency

Without prejudice to the competencies of the National Commission for Data Protection with regard to data processing, competence for opening and examining cases of administrative offenses envisaged in Article 45 lies with the agents who grant and issue passports.

For the purposes of the previous number, the application of fines and additional sanctions is the responsibility of the leading directors of the bodies who, through their own or delegated competence, grant or issue the different types of passport.

The income from the fines referred to in Article 45, is paid to the following entities in the percentages given below:

- 40% to the State;
- 30% to the entity competent to grant or issue the passport;
- 30% to the entity responsible for the database for issuing passports.

CHAPTER V

Transitional and final provisions

Article 49.º

Giving notification of loss of nationality

The Central Registry gives notification by the eighth day of each month of the situations that, having determined the loss of Portuguese nationality, prevent the issue of a Portuguese passport.

Article 50.º

Transitional regime

Passports issued after the date on which this law comes into force retain their validity, without prejudicing a request for their replacement, against the delivery of the passport to be replaced.

The validity of including a minor on a common family passport issued up until the date on which this law comes into force expires whenever the minor reaches the age of 16, without prejudicing the expiry of the actual passport.

While family passports including minors continue in force, these should be accompanied by the identity card or birth certificate.

Article 51.º

Legislation revoked

Decree-Law n° 438/88, of 29 November, with the changes introduced to it by Decree-Law n° 267/89, of 18 August, and Ordinance n° 965-C./89, of 30 14 October, are hereby revoked.

Article 52.º

Entry into force

This law comes into force 120 days after the date of its publication.