

TI Portugal wins lawsuit against Portuguese Government for information on Gold Visas

Ministry of Internal Affairs admits not having essential data on the scheme

Lisbon, 3 January 2020 - The Administrative Court of Lisbon upheld the subpoena filed by Transparency International Portugal (TI-PT) to force the Ministry of Internal Affairs to disclose public interest data about the Gold Visa scheme. The lawsuit victory is the culmination of a long battle by TI-PT, which since April 2018 has been asking the Ministry of Internal Affairs for information on the impact and existing controls on the granting of Gold Visas, having never received any response. In the judgment, dated 20 November 2019 but only communicated to TI-PT at the end of December, the Ministry is required to provide the missing information within ten days. To date, Transparency and Integrity has not yet received any information from the Ministry.

"This ruling confirms the elementary right of citizens to question their governments and access information of relevant public interest - a right that the Ministry of Internal Affairs has repeatedly denied to us for almost two years," said the Vice Chair of Transparency International Portugal, Susana Coroado. "This information is all the more important, urgent even, since the Gold Visa program has raised criticism and alarm signals from the European Parliament, the European Commission and more recently the European Economic and Social Committee, because of the risks of corruption, money laundering and even the security implications for the EU as a whole. The government has to stop running and be held accountable. That is the meaning of this ruling".

TI Portugal filed this lawsuit with the Lisbon Administrative Court after receiving no response whatsoever to the insistent requests for access to information from the Ministry of Internal Affairs. In March 2019, the Portuguese Commission on Access to Administrative Documents, following a complaint from TI-PT, had already issued an opinion on the legality of access to the desired data, an opinion which the Ministry ignored, forcing the TI Portugal to go to court. In the ruling, the court rejects the Government's arguments, which had invoked statistical confidentiality and the internal security secrets for its refusal to reply, and summoned the Government to provide all the information requested by Transparency International.

Government admits lack of crucial data on scheme's integrity

Not covered in the court's subpoena is only the data that the Government itself had already admitted, in response to the Committee on Access to Administrative Documents, to not possessing.

Transparency International Portugal's request for access to information, now confirmed by the Lisbon Administrative Court, requires access to the following data:

1. In respect of Investment Residence Permits (ARI):

a) Total number of visas awarded by geographic distribution of its beneficiaries (Districts + Autonomous Regions)

b) Total number of visas granted by nationality of beneficiaries;

c) Total number of visas granted by area of activity/investment of the beneficiaries;

d) Number of investments made not directly by the beneficiaries but by companies controlled by them (in particular as regards real estate investing);

e) Number of jobs created by beneficiaries of the programme;

f) Number of applications rejected since the beginning of the programme, broken down by applicants' country of origin;

g) Number of visas issued which were subsequently cancelled since the beginning of the programme, broken down by applicants' country of origin and indicating the reasons for cancellation;

h) Number of contacts established with third country authorities to verify data submitted by applicants, broken down by countries contacted;

i) Annual evolution of data referred to in points (a) to (h);

j) Identification of the companies that created jobs as provided for in paragraph d) of paragraph 1 and paragraphs 2 and 3 of Article 3 of the Foreigners Act;

k) Identification of the companies through which the real estate investment was made (sole proprietorship by quotas or joint ownership, pursuant to the provisions of Article 65-A, paragraph 2 of Regulatory Decree No. 9/2018, of September 11).

2. Impact assessments of the programme that have been carried out by or at the request of the Government - or an indication that no impact assessments have been carried out if they do not exist.

3. Regulations indicating what control mechanisms and procedures are in force, namely to establish the origins of the invested capital and to identify the beneficial owners of companies that set up in the country and/or acquire real estate and whose partners benefit from Golden Visas.

The points marked with * correspond to information that the Government has acknowledged does not exist.

“Before we even see the information that the court has now called on the Government to provide, this lengthy process has already had the merit of compelling the Ministry of Internal Affairs to recognize that it lacks crucial data to assess the integrity of the entire Golden Visa scheme. It’s alarming that the State has no record of contacts with other countries to exchange information on Gold Visa applicants - precisely a recommendation from the European Commission to ensure the security of the regime. Or that it doesn’t know how many Visas have been revoked, and why. It means that the security controls are unaudited and the scheme is freewheeling”, says Transparency International’s vice chair Susana Coroado. “All this leads us to believe that the remaining information will confirm the worst: that the Portuguese State has a policy of arms wide open and eyes wide shut regarding Golden Visas and that the security warnings and money laundering risks issued by the European institutions are simply being ignored. We again call on the Government to suspend the Golden Visa programme until such critical assessments can be independently made and reviewed by Parliament and civil society. We cannot allow these risks to continue unchecked”.

Transparency International Portugal expects the Ministry of Internal Affairs to now comply with the order of the Lisbon Administrative Court and will use all legal means at its disposal to compel the Government to comply with the court’s judgment.