

## LEGAL ALERT

# PORTUGAL GOLDEN VISA 2020 – NEW CHANGES IN PERSPECTIVE

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On 06 February 2020, the Portuguese Parliament approved the annual budget law for 2020 which includes a legal authorization to the Government to amend the Golden Visa (“GV”) scheme.

As a result, the Portuguese Government has now the authority to amend the law (law 23/2007) in relation to the GV scheme. The changes envisaged are intended to favour certain types of investment and to reduce the focus on direct real estate investment, limiting real estate investment for GV purposes to certain regions within the country and to the islands of Madeira and Azores.

The specific changes and its legal and practical implementation (and implications) will only be determined when the Portuguese Government releases the new bill. At this stage, it is only possible to, based on the authorization granted by the Parliament, anticipate some of the changes being forged as well as the key directions the government will have to comply with when amending the law.

This alert focuses on the meaning (and effects) of the recently approved budget law, the changes in perspective and some of the key questions that investors and developers have in relation to the changes in the GV scheme.

### Quick reading guideline

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## **I. What has changed?**

So far, no changes have been made to the GV scheme. The Portuguese Parliament has only authorized the Government to do so. This means that the Government will have to prepare and issue new legislation to amend the existing laws implementing the GV scheme. Until then, the existing regime will remain unchanged.

The Government does not have any legal obligation to make such changes nor does it have to make the amendments to the full extent of the authority it has been granted with.

## **II. What will change?**

The grant of leave to amend the GV scheme legislation has set the following directions for the changes to be enacted by the Government:

- A.** To limit the direct real estate investment to certain regions within the country and to the Madeira and Azores islands.

The existing scheme of real estate investment through the purchase of a property (with current minimum value of €500,000) and properties in urban regeneration areas (with current minimum acquisition and re-development investment of €350,000) will be limited to certain regions in the interior of the country and to the islands of Madeira and Azores.

This means that major urban areas, such as Lisbon, Porto, Coimbra and, in all likelihood, in Algarve, will be excluded from the GV program.

It is not clear, at this stage, whether the geographical areas that will qualify for GV purposes will include urban centres in the interior of the country and Madeira and Azores or only low-density population and undeveloped areas.

- B.** To increase the minimum investment requirements and the number of jobs to be created for the purposes of GV qualification.

The government may consider increasing the existing minimum investment requirements, both in relation to the minimum investment amounts and number of jobs created. The authorization issued to the Government is not limited to any

particular type of investment and may, therefore, result in an increase of the minimum amounts and number of jobs linked to any of the available investment options.

Given the intention to favour certain types of investment, as referred below, it is not expected that the investment requirements for certain types of investment such as heritage, cultural and scientific investment, will increase.

- C. To approve changes to favour investment in regions of low population density (less than 100 habitants per km<sup>2</sup>), urban regeneration, heritage, environment-friendly investment, productive investment and job creation.

It is therefore expected that the Government may create further incentives or, at least, maintain the minimum investment requirements under the GV scheme for other types of investment, such as venture capital funds investment or business investment relating to the creation of jobs.

The above directions limit the scope of the changes the Government may implement.

### **III. When will the changes take place?**

The authorization issued to the Government is valid for 2020. Should the Government decide to use such prerogative and amend the GV scheme it will have to do so before 31 December 2020. The validity of such authorization may, however, be extended by the Parliament.

So far, the Government has given no indication in respect of the timing for the new legislation to be passed and/or become effective.

### **IV. Will the changes be temporary or permanent?**

It has been referred in the media that the amendments to the GV scheme will be temporary in order to curb real estate prices in key urban areas, such as Lisbon and Porto.

No such directive or limitation has been issued by the Parliament. The government may or may not decide to limit any changes to the GV scheme to a certain period.

**V. Will the changes apply to pending applications?**

The changes that may be approved to the GV scheme will only apply to new submissions, made after the new law enters into force.

It is not clear, at this stage, whether online submissions will be considered pending applications for the purpose of being excluded from the new changes.

**VI. Will the changes apply to renewals of existing temporary permits granted under the existing GV scheme?**

Any existing temporary residency permits should not be affected by the new changes. As such, any renewals and subsequent citizenship applications should be possible in accordance with the current legal requirements.

**VII. Will the changes apply to family reunion applications?**

The new changes shall not limit or prevent the possibility of any beneficiaries of a GV residency permit to request a residency permit for his/her family members, under the existing regime. As such, the holders of GV residency permits obtained prior to the new changes being considered shall maintain the possibility to obtain a residency permit to his/her family members even after the GV scheme is amended.

**Conclusion**

Although no changes have yet been made to the GV scheme, the fact that the Parliament has issued such authorization to the Government has created significant uncertainty for investors and developers, especially due to (i) the lack of a clear timeline for these changes to be approved and become effective; (ii) the fact that no clear definition of “new submission” is being provided and (iii) the possibility that all alternative investment options being potentially subject to changes as well in respect of the minimum investment requirements.

It is, however, clear, that, should the Government decide to amend the GV scheme, real estate investment in major urban areas, such as Lisbon and Porto will very likely be excluded from the program or, at least, limited to urban re-development areas.

Until the Government further clarifies its intentions in this respect, investors should consider dealing with caution and take adequate legal protection for their investment.

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