



GOVERNING INHERITANCE STATUTES
AFTER THE ENTRY INTO FORCE
OF EU SUCCESSION REGULATION

GOINEU



This Project is funded
by the European Union's
Justice Programme 2014-2020

Presentation of the results of the project

Regulation 650/2012 and migration from Islamic countries Report From Coimbra

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Summary:

- General overview of migration in Portugal
- Wedding celebration – the case for the legislator
- Marriage dissolution – the case for the Courts



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General overview –migratory trends in Portugal



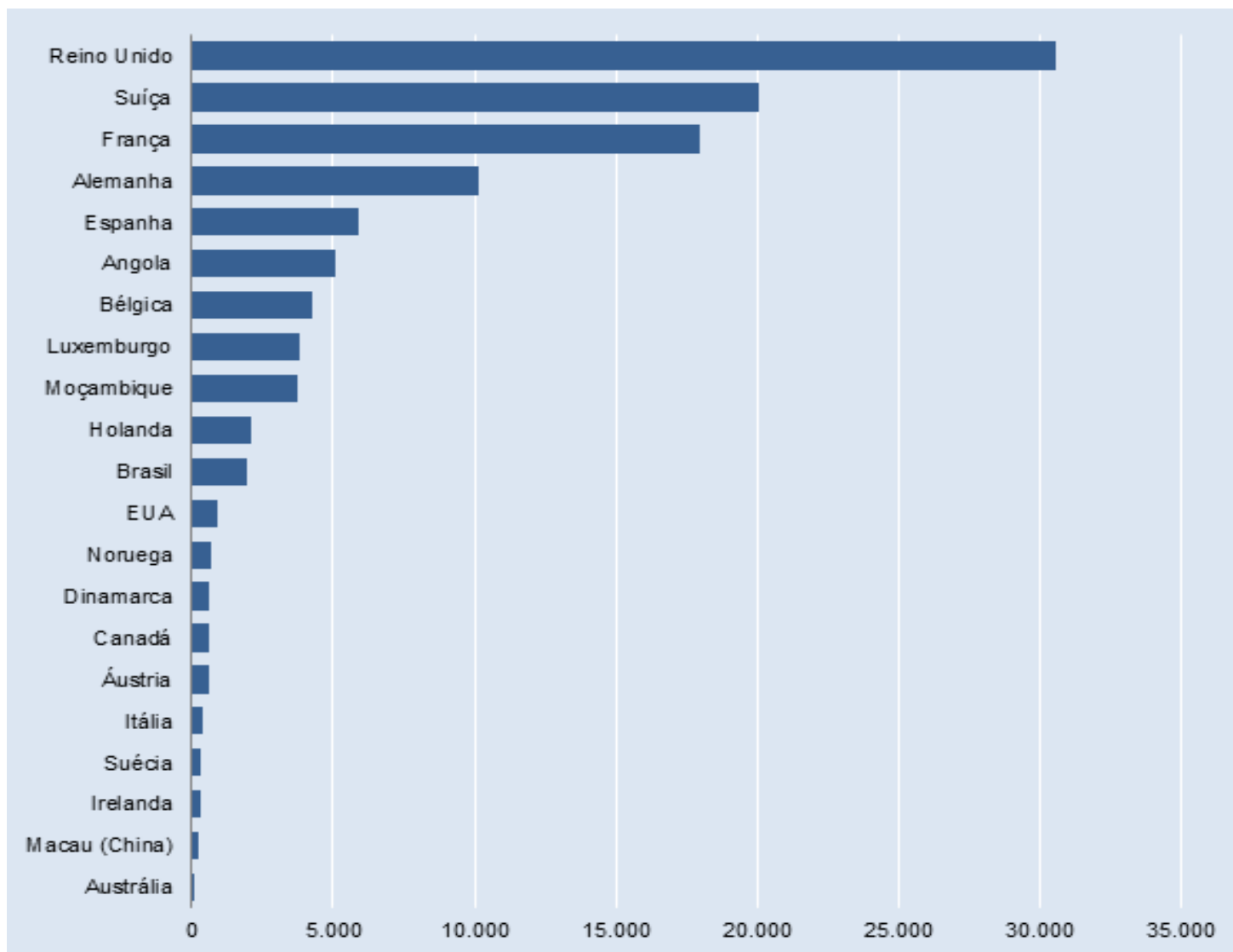
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Credits:

*Observatório
da
Emigração*



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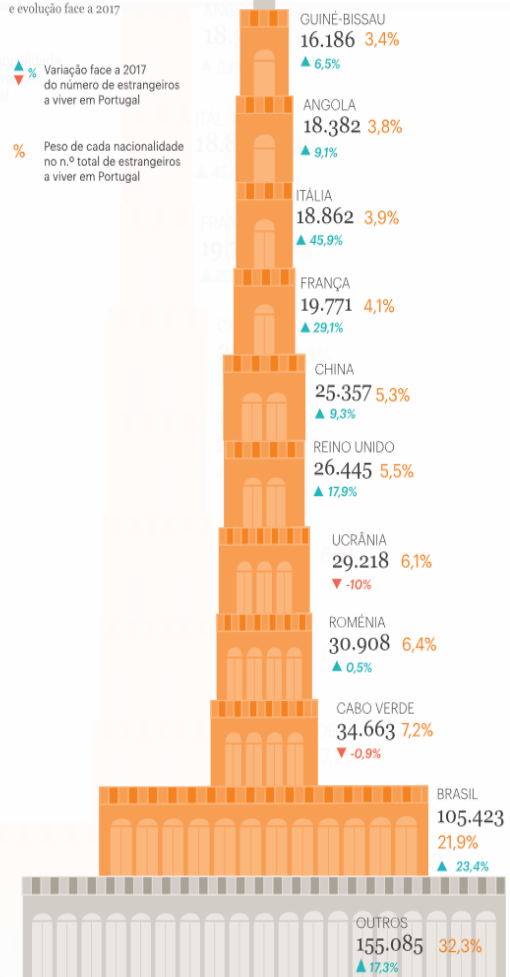
Estrangeiros em Portugal

DE JUSTIÇA MEDIA

Nacionalidades mais representativas e evolução face a 2017

▲ % Variação face a 2017 do número de estrangeiros a viver em Portugal

▲ % Peso de cada nacionalidade no n.º total de estrangeiros a viver em Portugal



Fonte: Relatório de Imigração, Fronteiras e Asilo 2018

J. Alves

Leamos e presentamos a olhar para o futuro

ASSINE JÁ

Apresente-se

REGISTE-SE

Mais Artigos por: M&A

Credits:

Jornal "Público"

26.06.2019

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Marriage celebration – the case for the Legislator?



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Matrimony

Civil Wedding

- Traditional Celebration
- Religious celebration

Catholic Wedding

- Code of Canon Law

Religious celebration of a Civil Matrimony

Law 16/2001, June 22 (Article 19)

- Presence in Portugal (30 years or more);
- Specific requirements concerning:
 - the religious marriage celebrant (minister of religion);
 - the preliminary process of marriage;
 - registration.

Marriage dissolution – the case for the Courts?



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Court of Appeal of Lisbon – decision 18.10.2007

The case:

- X and Y got married in 2000, in Rabat, Maroc;
- In 2004, the Court of Rabat confirmed former repudiation by the husband;
- The wife did not oppose to neither the repudiation, neither the divorce;

Revision of the decision by the portuguese Court of Appeal: it the Moroccan decision against Portuguese public order?



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Answer: No.

Grounds of the decision (1):

- **A divorce based on:**
 - **an unilateral decision of one spouse,**
 - **without a specific ground,**

- **is not against Portuguese public order.**

Answer: No.

Grounds of the decision (2):

Moroccan Law that allows repudiation only to husbands

goes against the principle of equality between spouses,

And Portuguese public order encompasses this principle (Portuguese Constitution, Civil Code, Protocol 7-5 of ECHR)

BUT: No opposition of the wife!



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Answer: No.

Grounds of the decision (3):

Moroccan Law that unilateral of revoking repudiation afforded only to husbands

goes against the principle of equality between spouses, and against human dignity.

BUT: the time-period had already expired and the dissolution of the muslim marriage was already definitive.



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Final considerations

What is at stake in unilateral repudiation?

- Equality between spouses? During marriage? At termination?

- Corte d'Appello di Roma: *«Ripugna alla mentalità morale e giuridica dei popoli che hanno raggiunto un maggior grado di civiltà e che del matrimonio hanno un concetto ético e sociale ben piú elevato di quello che ne hanno i popoli orientali»* (29.10.1948)



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Final considerations

Thank you very much!

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