

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

MAR 28 2008

MEMORANDUM FOR: Assistant Directors
Deputy Assistant Directors
Field Office Director
Deputy Field Office Directors

FROM: Gary Mead
Acting Director

SUBJECT: Removal Notification Requirement for Portuguese Nationals

The purpose of this memorandum is to provide field offices with guidance relating to a signed protocol between the United States Government (USG) and the Government of Portugal (GOP) pertaining to the repatriation of Portuguese citizens.

As set forth in the protocol, U.S. Immigration and Customs Enforcement (ICE) is required to provide notification of the removal of all Portuguese nationals to the Consulate of Portugal having jurisdiction over the field office where the Portuguese national is detained. (b)(7)(E)

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(b)(7)(E)

If there are any questions regarding this memorandum, please contact (b)(6),(b)(7)(C) HQDRO at (202)732-(b)(6),(b)(7)(C)

Attachments: (2)

**EMBASSY OF PORTUGAL - CONSULAR SECTION
WASHINGTON, D.C.**

**AREAS OF JURISDICTION OF PORTUGUESE CAREER CONSULATES
IN THE UNITED STATES**

| CITY | TYPE | ADDRESS/TEL/FAX | AREA OF JURISDICTION |
|---|--|---|--|
| BOSTON | CONSULATE GENERAL | ONE EXETER PLAZA, 7th FLOOR BOSTON, MA 02116 TEL. (617) 536-8740 FAX (617) 536-2503 ma mail@cqbos.dgacpp.pt | STATES OF : MASSACHUSETTS (EXCEPT AREA COVERED BY CONSULATE IN NEW BEDFORD), MAINE, NEWHAMPSHIRE, VERMONT |
| NEWARK JURISDICTION OVER HONORARY CONSULATE IN PHILADELPHIA (SEE ATTACHED UST) | CONSULATE GENERAL | THE LEGAL CENTER 1 RIVERFRONT PLAZA NEWARK, NJ 07102-5401 TEL (973) 643-4200/2156/58 FAX (973) 643-3900 mail@cnnew.dgacpp.pt | STATES OF: DELAWARE, NEW JERSEY & PENNSYLVANIA |
| NEW YORK JURISDICTION OVER HONORARY CONSULATES INS. JUAN & WATERBURY (SEE ATTACHED LIST) | CONSULATE GENERAL | 630 FIFTH AVENUE, 3rd FLOOR NEW YORK, NY 10036 TEL (212) 221-3165 FAX (212) 221-3466 mail@cgnyk.dgacpp.pt | STATES OF: NEW YORK & CONNECTICUT TERRITORIES OF: MICHIGAN, PUERTO RICO & AMERICAN VIRGIN ISLANDS. THE BAHAMAS |
| S. FRANCISCO JURISDICTION OVER HONORARY CONSULATES IN LOS ANGELES & HONOLULU (SEE ATTACHED LIST) | CONSULATE GENERAL | 3298 WASHINGTON STREET S. FRANCISCO, CA 90067 TEL. (415) 346-3400 FAX (415) 346-1440 concenportugal@sgsfr.dgacpp.pt | STATES OF: ALASKA, ARIZONA, CALIFORNIA, COLORADO,, HAWAII, IDAHO, MONTANA, NEVADA, NEW MEXICO, OREGON, UTAH, WASHINGTON STATE & WYOMING |
| N. BEDFORD | CONSULATE | 628 PLEASANT STREET, R-201 NEW BEDFORD, MA 02740 TEL. (508)997-6151 FAX (508) 992-1068 mail@connbf.dgacpp.pt | CITIES OF: ACUSHNET, DARTMOUTH, NEW BEDFORD AND FALL RIVER COUNTIES OF: BARNSTABLE, BRISTOL, DUKES, NUNWCKET AND PL YMOUTH |
| PROVIDENCE | CONSULATE | 56 PINE STREET, 6th FLOOR PROVIDENCE, RI 02903 TEL. (401)272-2003 FAX (401) 273-6247 mail@cnpro.dgacpp.pt | STATE OF: RHODE ISLAND |
| WASHINGTON, DC JURISDICTION OVER HONORARY CONSULATES IN HOUSTON, MIAMI & NEW ORLEANS | CONSULAR SECTION OF THE EMBASSY OF PORTUGAL | 2310 TRACY PLACE, N.W. WASHINGTON, D.C. 20008 TEL. (202) 332-3007 FAX (202) 387-2768 mail@scwas.dgacpp.pt | STATES OF: ALABAMA, ARKANSAS, FLORIDA, GEORGIA, ILLINOIS, INDIANA, IOWA, KANSAS, KENTUCKY, LOUISIANA, MARYLAND, MINNESOTA, MISSISSIPPI, MISSOURI, NEBRASKA, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, VIRGINIA, WEST VIRGINIA, WISCONSIN & THE DISTRICT OF COLUMBIA |

**PROTOCOL BETWEEN THE UNITED STATES OF AMERICA AND
PORTUGAL FOR REMOVAL PROCEDURES OF PORTUGUESE
NATIONALS FROM THE UNITED STATES OF AMERICA AND U.S.
NATIONALS FROM PORTUGAL**

STATEMENT OF PRINCIPLES

The United States of America and Portugal enjoy excellent bilateral relations, and both countries:

- Recognize and note the importance of the right of the other country to remove foreign nationals found within its national territory in violation of its domestic laws, as well as the right to return such foreign nationals to their country of nationality;

- Recognize that international law requires a country to accept the return of its nationals;

- Recognize the right of the other country to confirm and determine who are their nationals before issuing them travel documents;

- Recognize the need to establish a safe and orderly process of removal of aliens that respects the rights of these individuals;

- Recognize that aliens that are to be removed who have been absent from their country of nationality for a prolonged period of time may be in particular need of consular services;

In addition, both countries are mindful that

- The relevant authorities in the United States of America and in Portugal wish to prepare to receive their repatriated nationals in an appropriate manner, and

- Article 36 of the Vienna Convention on Consular Relations requires that detained foreign nationals be informed of their right to consular notification, and also requires that consular notification be made when detained foreign nationals request it.

Consistent with these considerations, the Governments of the United States of America and Portugal expect to employ the following measures and procedures to facilitate the return to their territory of American and Portuguese nationals being removed from the United States and from Portugal.

PART I: PROCEDURES FOR INITIAL NOTIFICATION

(A) *The U.S. Immigration and Naturalization Service (INS)* expects to take all reasonable steps to provide the Government of Portugal, through its Embassy in Washington, D.C., with a list of all Portuguese nationals who have been placed in removal proceedings. The list should reflect where each national is detained and will indicate whether the Individual is in the custody of *INS* or other authority and who operates the facility. This list is expected to be provided every six months and should reflect the information available to *INS* on the date of issuance.

(B) The *INS* expects also to provide at the end of each calendar quarter a list of all Portuguese nationals detained by *INS*. This list should be provided to the Portuguese Embassy in Washington.

(C) Such notification (A and B above) should ensure that the Government of Portugal has at least 90 days notice, in most cases, of the potential for removal of one of its nationals.

(D) *The Portuguese Servico de Estrangeiros e Fronteiras (SEF)* expects to take all reasonable steps to provide the Government of the United States, through its Embassy in Lisbon, with a list of all the United States nationals who have been placed in removal proceedings by the Portuguese authorities. For that purpose *SEF* expects to notify, as early as practicable, the Portuguese Ministry of Foreign Affairs, in order that the American Embassy in Lisbon be informed of those procedures, in most cases, at least 90 days before the effective removal takes place.

(E) To facilitate contact with the American Consular authorities, *SEF* expects also to provide the *Portuguese Ministry of Foreign Affairs* with a list of all American nationals who have been placed in temporary accommodation centers, after a removal decision has been taken.

(F) When the detained United States or Portuguese nationals do not object, American and Portuguese consular authorities may contact or visit their nationals at federal, state and local institutions where they are detained to elicit the information necessary for the Government of each country to provide required social welfare services after their return. At that time, consular officers of the Government of the United States of America and of the Government of Portugal may secure releases for medical and other records from their nationals, and within the regulations of detaining institutions make arrangements to provide social service visits.

PART II • REQUESTS FOR AND ISSUANCE OF TRAVEL DOCUMENTS

(A) Requests for Travel Documents

- 1) *INS* should submit all requests for travel documents to the relevant Portuguese consular offices. *INS* understands that the Government of Portugal operates the following consular offices in the United States:

The Consulate General of Portugal in New York, New York; The Consulate General of Portugal in Boston, Massachusetts; The Consulate General of Portugal in Newark, New Jersey; The Consulate General of Portugal in San Francisco, California; The Consulate of Portugal in New Bedford, Massachusetts; The Consulate of Portugal in Providence, Rhode Island; The Embassy of Portugal in Washington, D.C. (Consular Section)

- 2) *INS* should present the Request for a Travel Document or Passport (Form 1-217) and supporting documents as early as practicable in the removal process. In most instances, this presentation should be before the formal removal order has been issued and well before any actual removal. When

(B) Issuance of Travel Documents

After receiving the required travel document presentation, and when satisfied that the removable individual is a Portuguese national, the relevant Portuguese official should:

- 1) Issue all travel documents with a validity of at least 60 days.
- 2) Issue a travel document within 3 business days whenever *INS* presents an I-217 request on behalf of a Portuguese national who has an alien registration file or other documents on file with *INS* or the *U.S. Department of State* that demonstrate that the individual is a Portuguese national, such as a passport or national identification card.
- 3) Issue a travel document within 30 calendar days when *INS* presents an I-217 request on behalf of a Portuguese national for whom there is no accompanying documentation. *INS* intends to make the individual available for telephonic or in-person interview as well as for photographs and fingerprints, as required.
- 4) Provide *INS* with a written explanation when the consular official is unable to issue a travel document within the time specified in subsection (2) or (3) above. This should identify any additional information required, and clarify the additional steps the consular official plans to take to issue the requested travel documents together with an estimate of the time needed to complete the issuance.
- 5) Procedures corresponding to those above apply when Portuguese authorities request issuance of travel documents for U.S. nationals to be removed from Portugal. Requests for travel documents should be processed according to Portuguese procedures and submitted to the U.S. Embassy in Lisbon.

PART III: FINAL NOTIFICATION OF TRAVEL ITINERARY

INS should endeavor to take the following steps after a travel document is issued and a final order of removal entered:

(A) Notification to Designated Consular Representatives: The *INS Field Office* nearest to where the Portuguese national is in custody should send a completed Notification of Alien Removal Form to the relevant Portuguese consular office at least 5 business days before the Portuguese national is expected to travel. In most cases, this notification should occur earlier. The Notification of Alien Removal Form contains the following information:

1. Name and *INS* registration number;
2. Date and place of birth;
3. Travel document type and number;
4. Legal grounds for removal;
5. Criminal background information from NCIC/DACS codes, including the dates and type of criminal conviction known to *INS*;
6. Names, titles and official passport numbers of escort officers (if relevant);
7. Special care considerations (e.g., medical, news media interest relatives in Portugal, etc.);
8. Itinerary for individual and escorts.

(B) Notification to Headquarters and Overseas *INS* Offices: The *INS Field*

International Affairs (OIA), at least five business days before the Portuguese national is expected to travel. *OIA* should endeavor to notify the *INS District Office* in Rome of the imminent removal. The *INS Rome District Office* should forward the *OIA* notification to the U.S. Embassy in Lisbon, for onward transmission to Portuguese immigration officials. The *INS Rome District Office* and the U.S. Embassy in Lisbon intend to undertake additional coordination with the Portuguese authorities, as necessary.

(C) Notification to the *Bureau of Diplomatic Security, U.S. Department of State*: When a Portuguese national being removed needs an escort, whether for a criminal or non-criminal removal, *INS* field offices should transmit via facsimile a notification to the *Bureau of Diplomatic Security, U.S. Department of State*, at least five business days before the Portuguese national is expected to travel. This notification is necessary to obtain necessary travel clearances from the U.S. Embassy in Lisbon. In any case, *INS* is expected to notify *SEF*, through the U.S. Embassy in Lisbon, when a Portuguese national being removed needs an escort, at least five business days before the expected travel day.

(D) The relevant Portuguese authorities expect to take the following procedures after the final order of removal is issued:

1. Notification to the U.S. Authorities: A completed notification of the final removal decision should be sent by the *Portuguese Ministry of Foreign Affairs* to the U.S. Embassy in Lisbon at least 5 days before the American national is expected to travel. For that purpose *SEF* expects to provide, in due time, the *Portuguese Ministry of Foreign Affairs* with a copy of the removal decision document.

2. Notification in case of escort: When an American national being removed needs an escort, the relevant Portuguese authorities should notify the U.S. Embassy in advance in order to obtain the necessary travel clearances.

PART IV: TRAVEL ARRANGEMENTS

(A) *INS* intends, under normal circumstances, to return removed Portuguese nationals on direct commercial flights to Portuguese territory, when possible. If U.S. officers escort the nationals, flights with intermediate stops may be arranged. Any non-standard itinerary should be closely coordinated with the *Department of State* and the Government of Portugal.

(B) *SEF* intends, under normal circumstances, to return removed American citizens on direct commercial flights to American territory, when possible.

Signed at Lisbon, this 30th day of May, 2000, in English and Portuguese.

For the Government of the Portuguese Republic:

For the Government of the United States of America:



Jaime Jos6 Matos da Gama
Ministry of State and Foreign Affairs

Madeleine Albright
Secretary of State