



"IN THE GOLDEN MOMENTS OF THE ECONOMY IT IS EASY FOR ANYONE TO BE LUCKY AND SUCCESSFUL, HOWEVER IT IS IN THE DIFFICULT PHASES THAT LUCK IS EXCHANGED FOR HARD WORK, SOLID KNOWLEDGE AND CONFIDENCE HELPS TO ACHIEVE SUCCESS"

SARA MACIAS



Foreign Investment in Portugal

What will 2022 bring us again?

Macias Y Asociados, hereinafter referred to as MyA - is pleased to have grown in the last two years, despite the economic constraints and the consequences of this Pandemic that hit us all, at the level of legal advice, to the international market, accompanying both corporate and financial projects of foreign investment in Portugal, as well as citizens who opted for the quality of life we have to offer.



PHOTO: DIANA QUINTELA

Macias y Asociados' mission is - in addition to providing its legal expertise in the defence of its clients' interests - to be a trusted partner, consultant and advisor. Having been in business for six years, how do you analyse the "solid and triumphant" challenges that have been part of the history of this Law Boutique?

This discreet but dedicated Law Boutique, which provides solutions and defines strategies for its clients, has sustained its growth both because of the high standard of legal knowledge in the areas to which it is dedicated and because of the trust that our dear clients and partners have placed in us, as well as the reference that they make of us to their peers.

In order to provide better advice to its clients, MyA extended its offices last year to Comporta, as its activity related to investments in the real estate sector, whether in due diligence in purchases and sales, the creation of tourist resorts or the licensing of municipal projects, led us to be closer to this business centre.

This year, also due to investments at the corporate level, it has extended its partnerships to Luanda, as it knows this market well through the years it has lived here, and was invited to be present in projects related to both financial and banking law, an area in which it is very proud of the evidence already provided and well recognised.

Curiously, and almost last but not least, MyA due to the need to expand its spaces and its team of lawyers, will be moving its premises to Lisbon in 2022, and is very grateful to its employees, clients and partners for the growing development of recent times.

We know that the market and, consequently, the countless activity sectors, are in constant evolution. Therefore, and with a view focused on the current legal practice, what were, for you, the transformations that most impacted the legal universe in Portugal?

The various legislative changes relating to Real Estate Law as well as those relating to Environmental and Energy Law have created the conditions that have enabled the renewal of a real estate park in all regions (although urban areas have benefited the most) either through the rehabilitation of urban buildings, the creation of tourist developments, the development of multiple eco-tourism projects, the development of projects sensitive to renewable energy.

One of the areas of expertise of Macias y Asociados, and with strong incidence, concerns the Golden Visa.



To better understand, what has this program represented to Portugal in the last years?

In the last ten years, since the date of creation of the Residence Permit for Investment Activity (ARI) scheme, in force since 8 October 2012, it has allowed nationals of Third States to obtain a temporary residence permit for investment activity with the exemption of a residence visa to enter national territory.

This possibility of entry of foreign citizens from outside the European area, with a view to investment, allowed the revitalization of the construction sector, urban rehabilitation, the creation of tourism units not necessarily hotels that opened our cities to multicultural tourism.

These investors and beneficiaries of the specific ARI / Golden Visa scheme have been granted the possibility to enter Portugal without a residence visa; to reside and work in Portugal, simply staying for a period of no less than seven days in the first year and no less than 14 days in subsequent years; to circulate within the Schengen area without a visa; to benefit from family reunification, and also to apply for the granting of a Permanent Residence Authorisation under the Foreigners' Law (Law no. 23/2007, of 4 July, as amended). Residence permits for investment activity were issued to citizens who hold a residence permit for investment activity and their family members, who meet the requirements foreseen in article 80 of the REPSAE and have requested the granting of a permanent residence permit, with the exception of the regime foreseen in paragraph b) of no. 2 and nos. 3 and 4 of article 85 of the same diploma (cancellation of the right to permanent residence due to absence from national territory, cf. article 65-K of Decree Reg. 84/07 of 5/11, in its current wording).

I believe that Portugal also through the NHR - Non Habitual Resident provided for in the Investment Tax Code, approved by Decree-Law no. 249/2009, of September 23, created the tax regime for the non-habitual resident under the Personal Income Tax (IRS), in order to attract to Portugal qualified non-resident professionals in high added value activities or intellectual property, industrial or know-how, as well as beneficiaries of pensions obtained abroad, or for the so-called "digital nomads" who can operate anywhere in the world and that by the fantastic living conditions that Portugal offers have been settling and boosting our economy with their polyvalent knowledge and enriched in multiculturalism.

MyA has assisted several or numerous Golden Visa and NHR projects, and can assure you that all beneficiaries have created economic links with Portugal and with Portuguese partners, which greatly benefit our economy and which I hope will remain as instruments of investment and globalization of our economy.

Being no exception to the natural changes in the market, as of 1 January 2022 the Portuguese Government will make changes to the Golden Visa regulations. To better understand, what will change?

Decree-Law no. 14/2021, of 12 February changes the legal regime for the entry, stay, exit and expulsion of foreigners from the national territory. This alteration limits the concession of Residence Permits for Investment (ARI), better known as 'Gold Visas', in the metropolitan areas of Lisbon and Porto and in the territories of the Intermunicipal Communities (CIM's) of the coast, which are excluded from the scope of application of the regime in the case of investments in residential real estate.

The acquisition of real estate, with a value equal to or greater than € 500,000, and the acquisition and execution of urban rehabilitation works, in an overall amount equal to or greater than € 350,000, which are intended for housing, continue to allow access to this scheme, but only when located in the Autonomous Regions of the Azores and Madeira or in inland territories, identified in the Annex to Ministerial Order No. 208/2017, of 13 July.

With this change there is also an increase of the values involving 'investment activity'. Thus, the following values are now considered: capital transfers in an amount equal to or greater than € 1.5 million; capital transfers in an amount equal to or greater than € 500 000, which is applied in research activities developed by public or private scientific research institutions, integrated in the national scientific and technological system; capital transfers in an amount equal to or greater than € 500 000, for the acquisition of participation units in investment funds; capital transfers in an amount equal to or greater than € 500 000, for the incorporation of a commercial company with registered office in national territory.

The new regime enters into force on 1 January 2022 and is applicable to all applications for an Investment Residence Permit (ARI) requested after its entry into force. It is made clear that the new regime "does not affect the possibility of renewal of residence permits", nor "the possibility of granting or renewing residence permits for family reunification", when the

ARI has been granted under the legal regime applicable until the date of entry into force of the new regime.

The renovations in the Golden Visa rules aim to boost investment in low population density areas in Portugal, relieving the pressure on metropolitan regions. In this sense, taking into account your experience, what are the expectations for the market in 2022?

If we are referencing geographical changes for real estate investment, it is worth pointing out that this is only for residential properties. With a panoply of cities in the Interior with excellent quality of life, high security and recognised capacity to rehabilitate properties in historical areas, I understand that it will not be difficult to choose a good place to live in Portugal.

It should be noted that for those who intend to invest in property for tourism or hotel management, the whole Portuguese territory is eligible, without any restriction. That is, for this modality there are no new rules for the Gold Visa Portugal.

As of 1 January 2022, it will only be possible to obtain a Gold Visa through investment in property for residential purposes if this is carried out in the Interior Territories and in the Autonomous Regions of the Azores and Madeira, with this restriction affecting the municipalities of the metropolitan areas of Lisbon and Porto (in this case, with the exception of the Municipality of Arouca and the parishes of Arões and Junqueira of the Municipality of Vale de Cambra).

Investors may continue to obtain a Gold Visa through the purchase of commercial real estate, such as offices or retail spaces, which are still covered by the programme, and may continue to invest in any area of the country, namely in Lisbon and Porto. ■

To conclude, and because we are now in a moment of reflection and "hope" for a better year, as a representative of Macias y Associados, what special message would you like to leave to all friends, clients and partners who have walked side by side with the success of the company?

In the golden moments of the economy it is easy for anyone to be lucky and successful, however it is in the difficult phases that luck is exchanged for work, solid knowledge and confidence helps to achieve success.