



Symposium Strategic Approaches on Migrants with Irregular Status in Europe

**Migrants with Irregular situation in Portugal:
are they targeted by social polices and have access to
services?**

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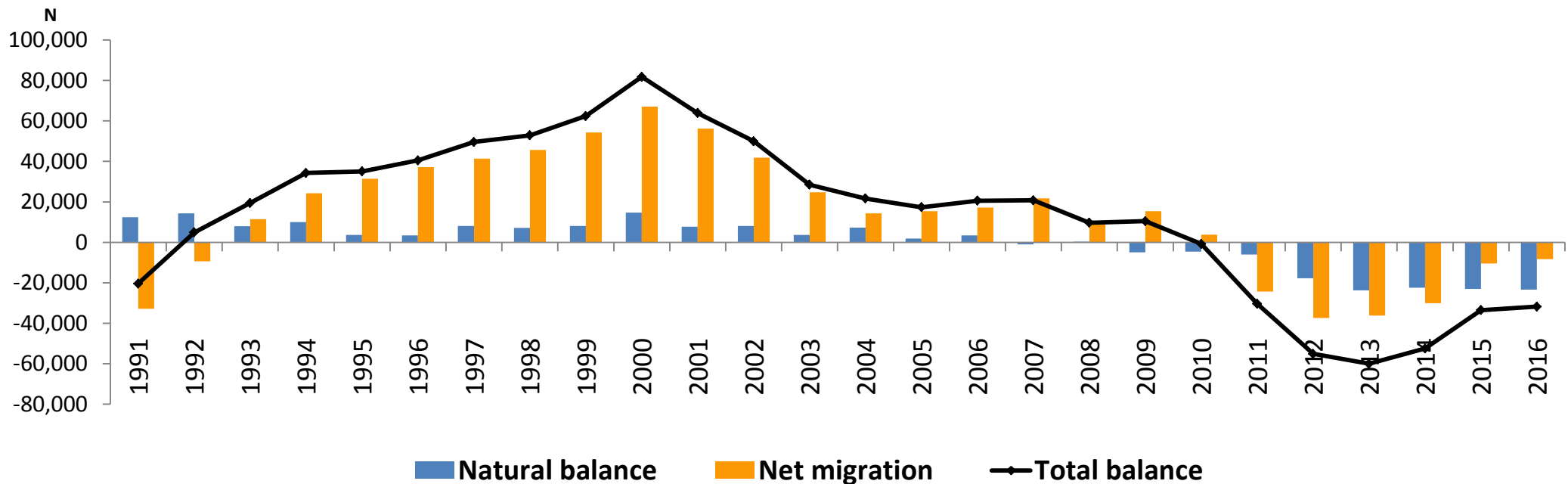
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Portugal migratory context



Portugal start to have a positive net migration in the 1990s (changing the previous flows: start receiving more immigrants than sending Portuguese emigrants abroad)

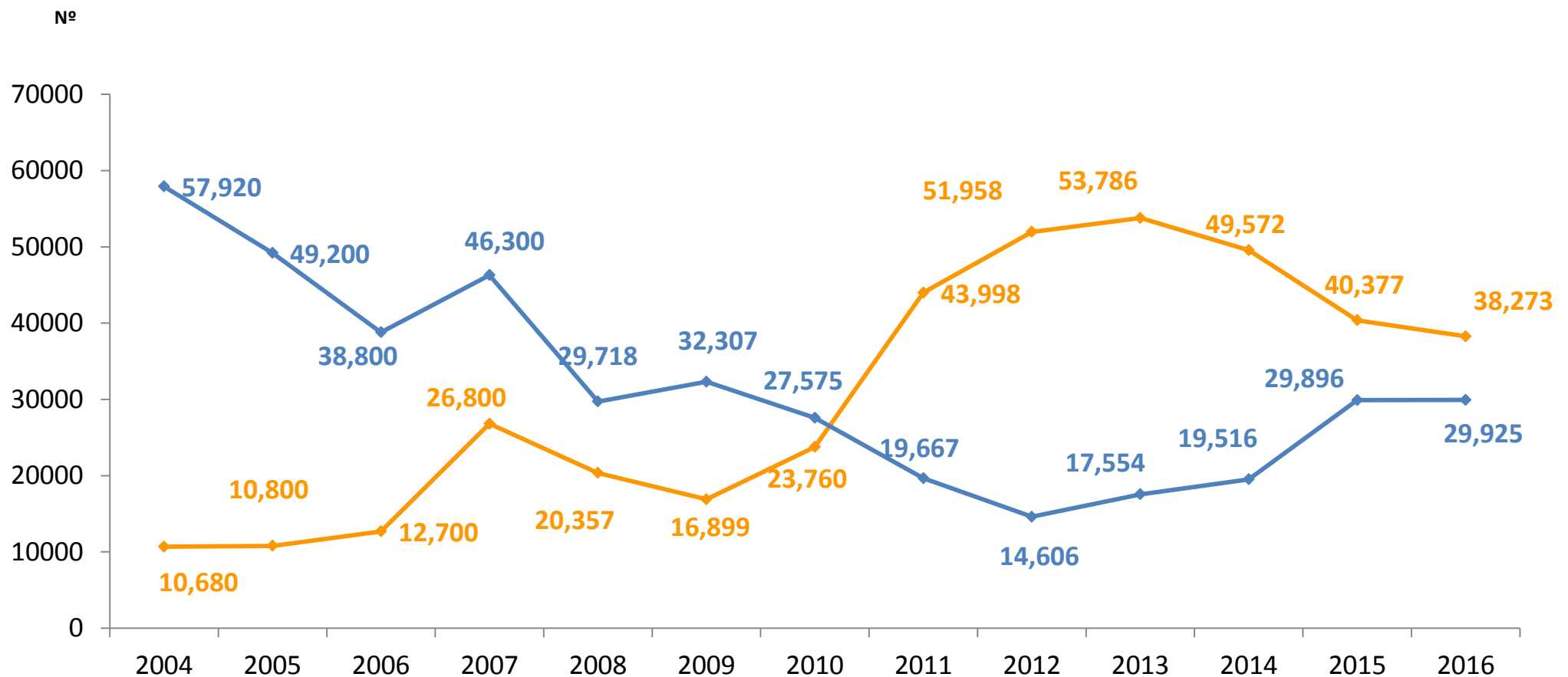


- Demographic deficit
- Since 2010 Portugal starts to have negative natural rates + negative net migration = decrease of total population
- Portugal in a fragile context = fertility rate very low + negative net migration + demographic aging

Portugal migratory context



Negative net migration reflects decrease of immigration and increase of emigration since 2011 (consequence of the economic situation of the country)





Inflows to Portugal

1970/1980s Flows from return Portuguese from former colonies (that become new States in 1970s: some of this “Portuguese” become foreigners without knowing) + Labour flows (programmes of recruitment of unqualified workers, namely with Cape Verde).

1990s Flows mainly from countries with whom Portugal had historical ties and with common language
Demand in construction and tourism sectors: reinforcement of programmes of labour migration
Arrival of immigrants from other European countries, namely in a irregular situation (or with tourist visas)



Extraordinary regularization processes: 1992/1993 + 1996 + 2001

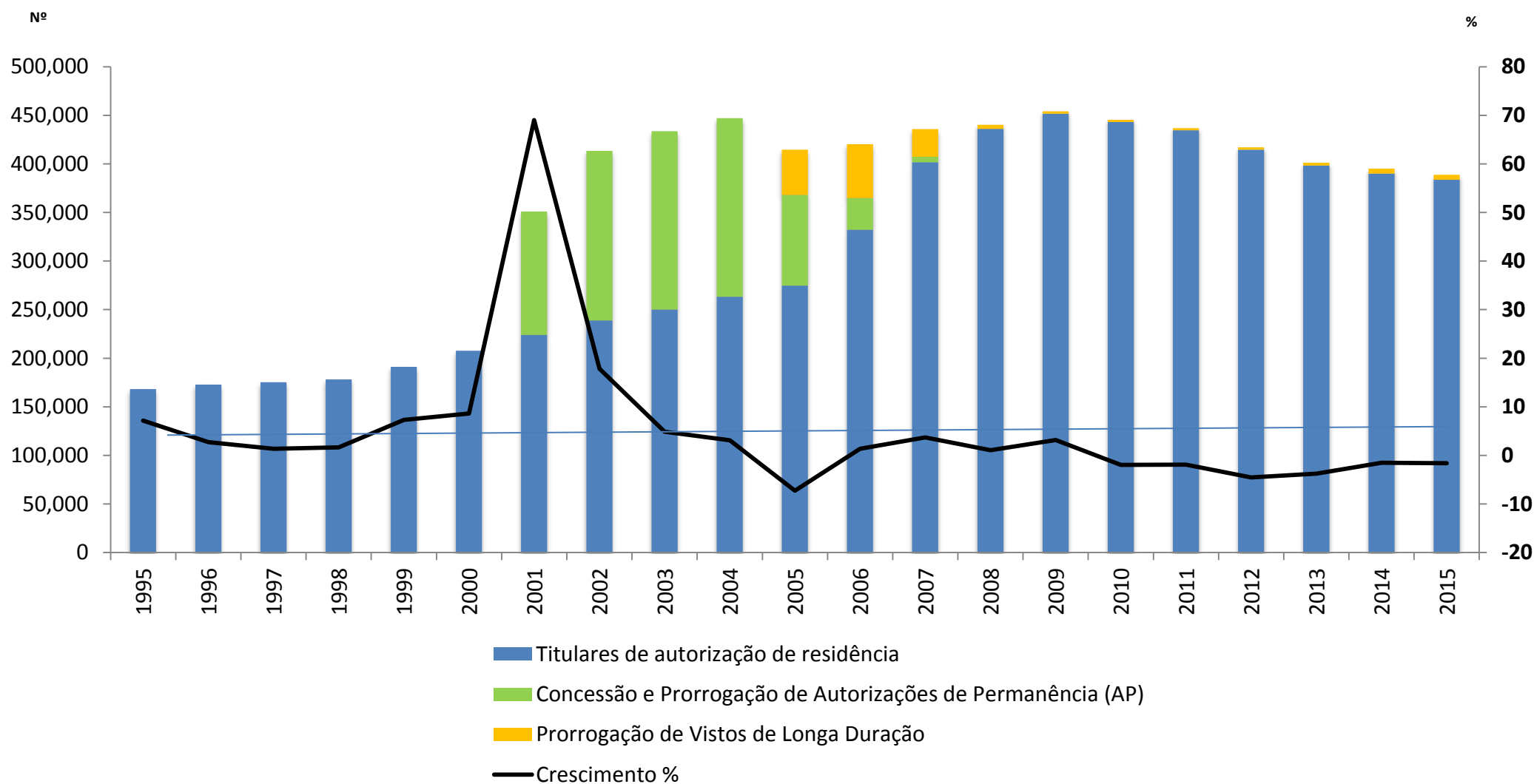
- Large inflows of immigrants with not historical ties with Portugal, specially in the end of the 1990s (Eastern Europeans and Asians)

2000s Portugal doubles its immigration population very quickly from 1999 to 2002



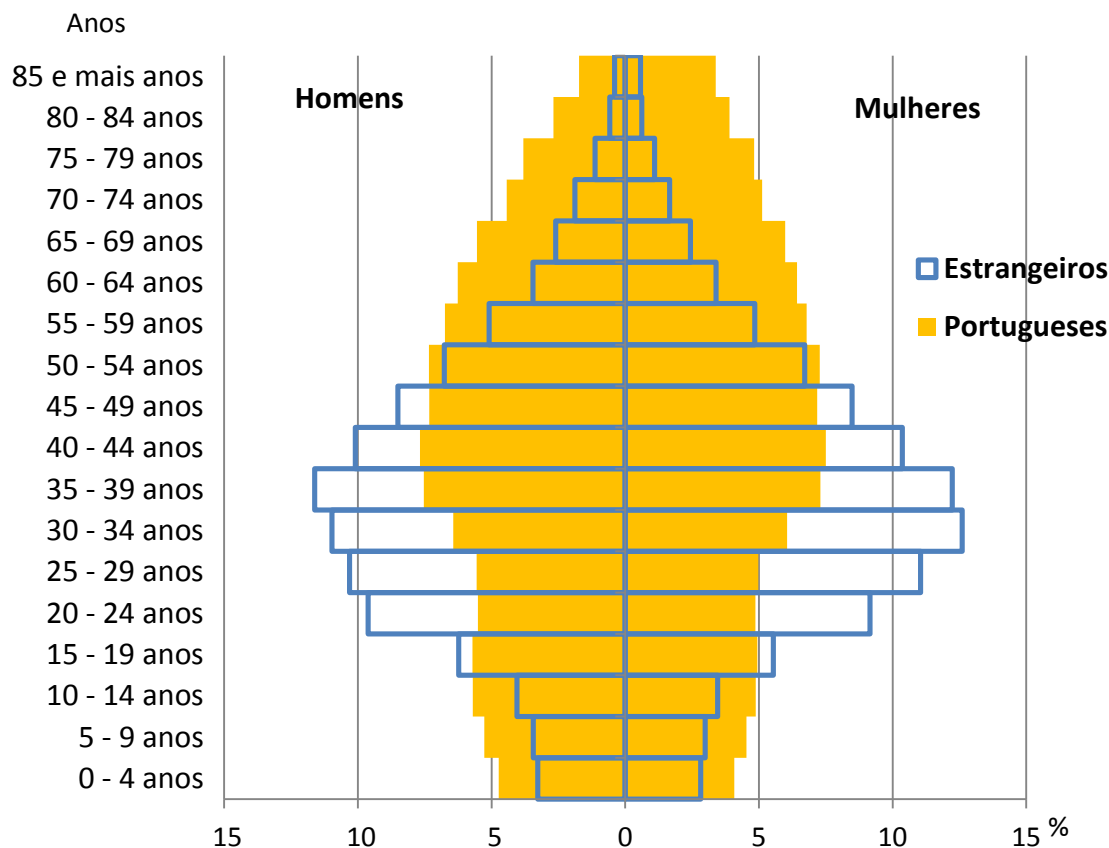
Need of investment of integration policies and services for immigrants

Portugal migratory context



Portugal almost doubled its stock of foreign population between 1999 e 2001, BUT since 2009 is decreasing the number of foreign residents in the country.

Pirâmide etária da população portuguesa e estrangeira, em 2014



Fonte: Estatísticas Anuais da População Residente 2014, INE

A entrada de imigrantes permite ao país reforçar **os grupos etários mais jovens e em idade ativa**, atenuando o envelhecimento demográfico.

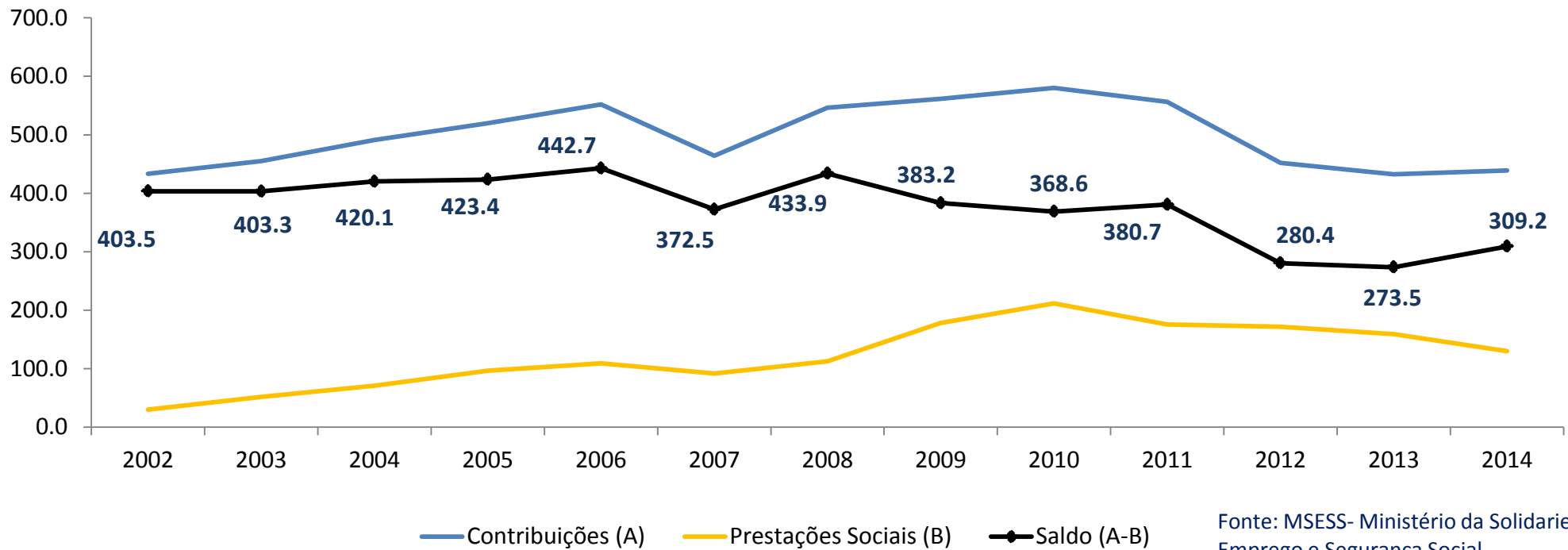
A população estrangeira mostra uma grande concentração nas idades ativas, entre os 20-49 anos (62,5%), o que não se verifica na população de nacionalidade portuguesa que regista percentagens mais baixas no mesmo intervalo de idades (38,9%). Nota-se também que **apenas 6,5% dos estrangeiros tem 65 ou mais anos**, enquanto os cidadãos de nacionalidade portuguesa atingem os 20,8% no mesmo intervalo de idades.

Não esquecendo os contributos que trazem para o atenuar dos efeitos do envelhecimento no sistema da segurança social de Portugal.

Migrants came to expend social security?

The balance between contributions and benefits from social security in Portugal by foreigners highlight a very positive balance for the Portuguese State...

Milhões de euros



Fonte: MESS- Ministério da Solidariedade, Emprego e Segurança Social.



1996 Creation of the Office of the High Commissioner for Immigration and Ethnic Minorities (ACIME) – the genesis of the Portuguese public institute responsible for the integration of migrants, called since 2014 High Commission for Migrations (ACM):

target – immigrants and ethnic minorities (not specified nationality or legal situation in the country)

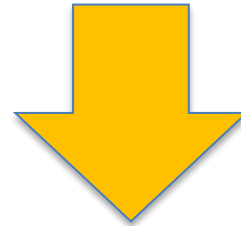
aim – integration

Recognizing the importance of having a coherent integration policy for immigrants Portugal creates ACIME earlier as a State Cabinet with the main mission of promoting the integration of immigrants and the intercultural dialogue in Portugal that, in **2007**, became a Public Institute with the official name **High Commission for Immigration and Intercultural Dialogue**.

In **2014** this institution was renamed again to **High Commission for Migrations (ACM)** enlarging its mission to coordinate an integrated answer to migration flows to Portugal in general (also refugees). Since its creation this public body has assured the participation and cooperation of representative immigrant associations, social partners and State Services in the definition and assessment of policies on migrants integration and on the prevention of exclusion and discrimination



**Do immigrants in irregular situation in Portugal have rights and duties?
Does those eventual right and duties differ according to the age of the migrant?**



Policy options in a humanitarian and intercultural approaches

- (1) Access to integration services (since 2003)**
- (2) Legalization and regularization (since 1992)**
- (3) The right of education (since 2004)**
- (4) The right of health (since 2001)**
- (5) Access to nationality by children of immigrants in irregular situation (since 2006)**

(1) Integration services



Integration services and policy options, which also include immigrants in irregular situation...

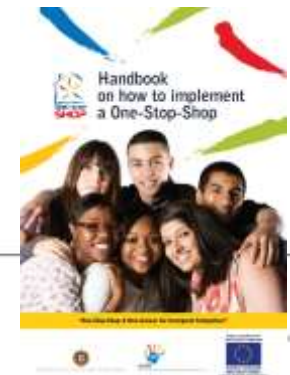
SOS immigrant phone line (2003)

Local Centres for Migrant Integration Support (CLAI's, since 2003): 56 municipalities involved

Creation of the **One-stop-Shop** approach (2004): national centres for the integration of migrants:

- **Prerequisites:** Partnership and Coordination in integration services (Coordination among Government services; Partnership between Government and civil society – branches of ministries and support offices in partnership with civil society organisations and immigrant associations, namely the Juridical Support Office and the Social Support Office); Mediation services by immigrant communities; Accessibility; Services provided
- In 2004, a total of 223,797 people were attended to at the CNAIs in Portugal.
- **From March 2004 to December 2016 more than 4 million cases were attend to.**
- The 3 one-stop-shops have a daily average of 950 service-users. The main nationalities of the people who use the services are Brazilian, Cape Verdean, Guinean (Guinea-Bissau), Angolan and Ukrainian, which reflect the overrepresentation of those immigrant nationalities in the country.

Outreach teams (intercultural mediators): since 2006



(2) Legalization and Regularization



3 formal regularization processes of immigrants in a illegal situation (1992/93; 1996 and 2001):

	Number applied	Number regularized
1992/93	80.000	38.364
1996	31.000	22.245
2001	170.000	126.901

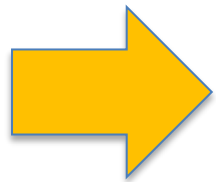
Since 2007' Immigration act mechanisms:

- **Article 40:** the rights of the citizens that have been refused to be or stay in the country (right of defence with lawyer, articulation with other legal frameworks – international protection, asylum)
- **Article 88º** of the law foresees that immigrants can require an authorization of residence to work in Portugal if: have a labour contract or a job promise, enter legally in the country and pays social security (is not mandatory to prove a present valid permission to be in Portugal). Focused that immigrants can justify their stay and permanence in the country because have a job promise;
- **Section V of the law (authorization of residence to victims of human traffic and of actions of support to illegal immigration): article 109º** it is provided an authorization of residence to victims of human traffic or victims of illegal immigration even if entered in Portugal illegally if the victim supports the authorities in the investigation of this illegal networks; **article 112º** about the rights of the victim – social and medical assistance, psychological support, protection, translation and interpretation; **article 114º** unaccompanied minors
- **Section VIII of the law (authorization of residence in special situations): article 122º** without the need of visa (e.g. minors, minors born, adults that are in Portugal since the age of 10, parents of children with Portuguese nationality); **article 123º** for raisons of national interest and humanitarian raisons

(3 & 4) The right to Education and Health



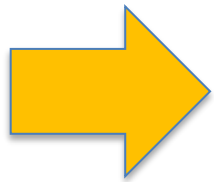
Health and Education is acknowledged a fundamental and universal social right in Portugal (underlined in articles 64º and 73º of Portuguese Constitution and postulated as referred to in articles 25º and 26º of the Universal Declaration of Human Rights) which is not limited to a certain group of residents in specific conditions;



Health **Public Health and the right to receive health care:** all existing services must be made available to meet the specific health needs of any resident in the country **ALTHOUGH** according to the legal situation in the country pay different fees, except:

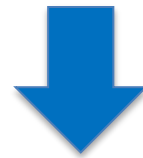


- foreign minors, residing without authorization, whose age is less than the minimum required by law for entering into an employment contract have the same rights as minors who are residing legally in Portuguese territory (DL n.º 67/2004)
- persons are in need of health care and in a situation that constitutes a risk to Public Health: communicable diseases (e.g. tuberculosis, HIV/AIDS and sexual transmitted diseases);
- persons in need and in a situation where health services are free: maternal health, children health and family planning, vaccination



Education

Considered as an universal right, in Portugal **all children, even if they or their parents are residing without authorisation**, have the right to education (right to attend school and enjoy all the benefits like any other children)



- all foreign minors, in irregular situation in Portugal, whose age is less than the minimum required by law for entering into an employment contract and depend on their family, have the same educational rights attributed to minors who are residing legally in Portuguese territory and legally registered in the country (DL n.º 67/2004);
- only mandatory school (1st, 2nd and 3rd cycles)

(5) Access to nationality



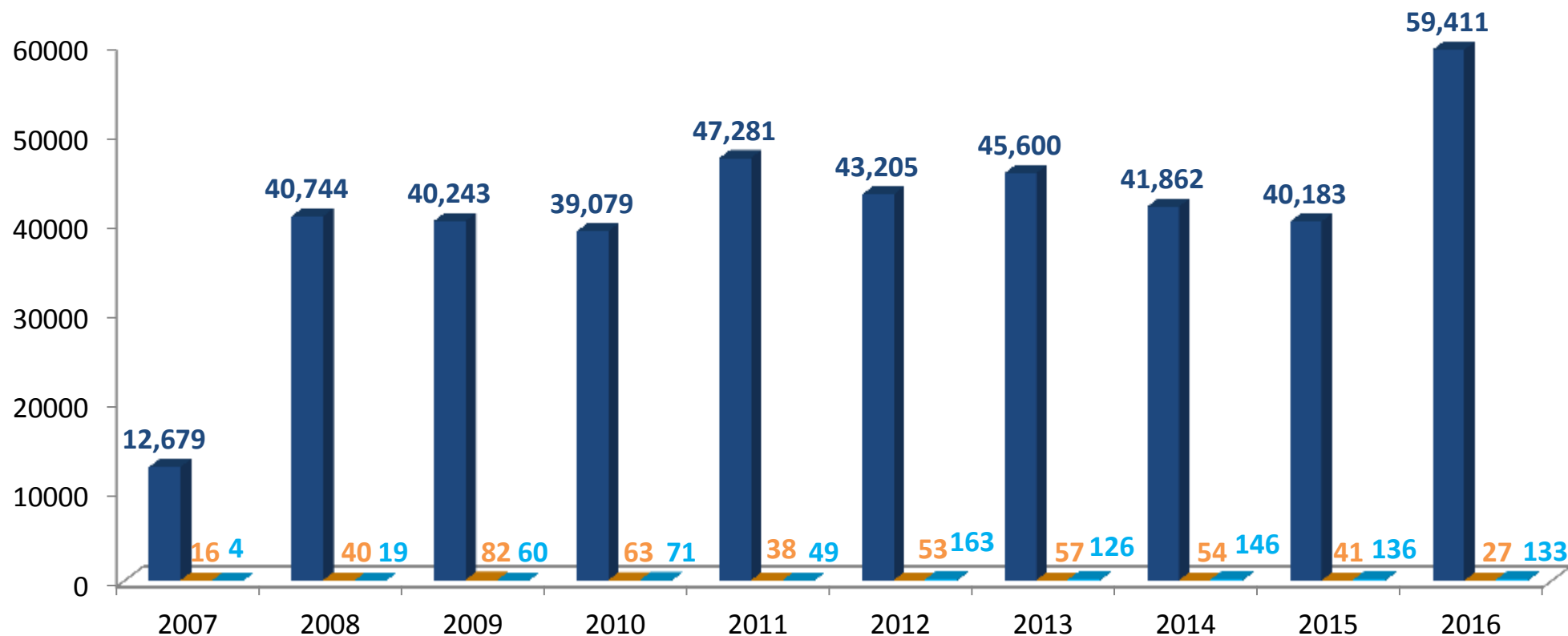
2006 Change in Citizenship act

- Approved in the Portuguese Parliament with no votes against and 91% of votes in favour from the members of the parliament;
- With this framework Portugal become in first of MIPEX – *Migrant Integration Policy Index* – as the country (among 38 analysed) with the best legal framework for the concession of nationality for foreigner residents
- This new framework accommodate a mix of *ius sanguinis*, with *ius soli* and *ius domicilli*
- In the **ius soli** provisions this act foresees special situations to the naturalisation of foreigners exempted from proves of legal residence in Portugal:
 - (1) children born in Portugal from parents residing illegally in Portugal, that after 10 years in the country (e.g. proofs of education system matriculation, health care access) can require Portuguese nationality;
 - (2) Special cases related to the loss of Portuguese nationality (e.g. citizens that become illegal in Portugal without knowing after the former colonies become countries and their nationality be revised from Portuguese for the nationality those new countries where they were born)

(5) Access to nationality



Since 2006 Portugal have a Citizenship Act that foresees special mechanisms of naturalization for children of immigrants in irregular situation born in Portugal and for irregular immigrants that were Portuguese during the colonial past



■ Total de concessões de nacionalidade (atribuições + aquisições)

■ Naturalização, com dispensa do requisito de residência legal no território português, a nascidos no território português, filhos de estrangeiros, que aqui tenham permanecido habitualmente nos 10 anos imediatamente anteriores ao pedido

■ Casos especiais



- Portugal is in a **fragile demographic situation**, being immigrants perceived as an attenuating solution
- The **country needs immigrants so better for them to be regular than irregular in the country**, so better to guide them to integrate and legalize their situation in the country;
- Some fundamental rights are perceived as universal no matter the legal situation of the persons in the country (health and education);
- Access to nationality: *ius soli* in the protection of those born in Portugal and staying in the country even illegally + those that lost Portuguese nationality due to the decolonization and become illegal without knowing



What explains partially these policy options and results....

- 1. Migration history:** not only with inflows but also with a strong experience on outflows / moral obligation to welcome Immigrants in the same way that we expect the Portuguese emigrants to be welcomed abroad
- 2. Political consensus:** convergence of political positions of the major political parties (from left to right parties) on immigration and integration / political arguments made by the Extreme right (propagating racist attitudes and xenophobia) have not led until now to significant electoral gains
- 3. Integration policies under the dependency of Transversal ministry** (Presidency of the Council of Ministers)
- 4. Migrants as part of the solution and not as the problem:** Portuguese policy has been based on the participation of migrants in definition of Integration policies (with Migrations Council) and on their active role in integration service provision (with the mediators and migrants associations)



Thank you for your attention!

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