

**AGREEMENT BETWEEN
THE PORTUGUESE REPUBLIC
AND
THE ISMAILI IMAMAT
FOR
THE ESTABLISHMENT OF
THE SEAT OF THE ISMAILI IMAMAT IN PORTUGAL**



Mawlana Hazar Imam and Portugal's Minister of State and Foreign Affairs Rui Machete sign a landmark agreement on June 3, 2015, establishing a formal Seat of the Ismaili Imam in Portugal. TheIsmaili/Gary Otte

The Portuguese Republic and the Ismaili Imam, hereinafter referred to as "Parties",

Considering the Protocol of Co-operation between the Government of the Portuguese Republic and the Ismaili Imam, signed in Lisbon on 19 December 2005 and considering further the Protocol of International Co-operation between the Ministry of Foreign Affairs of the Portuguese Republic and the Ismaili Imam signed on 11 July 2008;

Recalling the Agreement between the Portuguese Republic and the Ismaili Imam, signed in Lisbon, on 8 May 2009, whereby the legal personality of the Ismaili Imam is recognised;

Having in mind the common purpose of strengthening the historical ties uniting both Parties, as well as of promoting enhanced enabling conditions for the activities of the Ismaili Imam, its governance bodies and its dependent institutions, in particular the member entities of the Aga Khan Development Network;

Furthermore having in mind the promotion of the quality of life of the global Shia Imami Ismaili Muslim Community and more generally of the people of the countries where the Ismaili Imam or its dependent institutions are or may become active, including Portugal and the Portuguese people in particular;

Considering that both Parties assume, as common objectives, the defence of human dignity, economic and social development, interfaith dialogue and the peaceful resolution of conflicts, as ways of achieving justice and peace;

Affirming the interest of both Parties in the establishment of the Seat of the Ismaili Imam in the territory of the Portuguese Republic and their common will mutually to respect each other's autonomy in the context of the mutual trust and esteem which has traditionally characterised their relationship;

Believing in the historic significance of such a decision for both Parties and fully appreciating the long term implications and complexities that such a decision entails;

Considering that the privileges, immunities and facilities recognised are not granted for the personal benefit of their holders, but merely in order to contribute to the effective and independent performance of their official and institutional functions on Portuguese territory;

Agree as follows:

Chapter I: General Provisions

ARTICLE 1

Definitions

For the purposes of this Agreement, the following terms shall have the meaning set forth below:

- a) "Ismaili Imam", a legal entity, means the institution or office of the Imam of the Shia Imami Ismaili Muslims established in accordance with the applicable customary law;
- b) "Imam" means the Imam of the Shia Imami Ismaili Muslims, embodying the Ismaili Imam at any given time in history, designated in accordance with the said customary law;
- c) "Dependent Institutions" means the instrumentalities of the Ismaili Imam, in particular the member entities of the Aga Khan Development Network around the world, more particularly Fundação Aga Khan, a Portuguese foundation created by decree-law in 1996;
- d) "Seat" means the global head office of the Ismaili Imam, as further defined in the present Agreement;
- e) "Members of the Seat" means the Senior Officials and the Staff Members of the Seat of the Ismaili Imam;

- f) “Senior Officials” means the Heads of the Ismaili Imamats Departments;
- g) “Staff Members” means the Members of the Seat employed in the administrative and technical service of the Seat;
- h) “Premises of the Seat” means the buildings or parts of buildings and the land ancillary thereto used exclusively for carrying out the official mission and performing the official functions of the Ismaili Imamats, including the central Seat premises, the premises of the Delegation of the Ismaili Imamats in Lisbon and the official residence of the Imam.

ARTICLE 2

Object

1. The Portuguese Republic acknowledges the legal personality and capacity of the Ismaili Imamats to act in international relations and welcomes the decision of the Imam to establish the Seat of the Ismaili Imamats in Portugal.
2. This Agreement establishes the privileges, immunities and facilities extended by the Portuguese Republic to the Ismaili Imamats, the Imam, the Senior Officials and the Staff Members, as well as to its Seat and assets, with a view to ensuring the performance of their official functions in Portugal and facilitating the same internationally.

Chapter II: Seat of the Ismaili Imamats

ARTICLE 3

Seat

1. The Portuguese Republic shall ensure the conditions for the establishment of the Seat of the Ismaili Imamats within its territory as well as for the exercise of its functions, in accordance with the present agreement.
2. The location of the Premises of the Seat shall be subject to mutual agreement between the Parties. Pending the construction or acquisition of the central Premises of the Seat, and within a period of five (5) years, the Seat may be established in Lisbon, in the existing premises of the Delegation of the Ismaili Imamats. The Imam shall notify his decision in this respect to the Minister of Foreign Affairs.

ARTICLE 4

Function of the Seat of the Ismaili Imamats

The function of the Seat is to serve as the global head office of the Ismaili Imamat with a view to:

- a) Facilitating the spiritual and secular guidance of the Imam to the Ismaili Community globally;
- b) Promoting the quality of life of the Ismaili Community globally and more generally of the people of the countries where the Ismaili Imamat or its Dependent Institutions are active;
- c) Enhancing international relations and co-operation with States, International Organisations and other entities.

ARTICLE 5

Appointment of the Members of the Seat

1. The appointment of the Senior Officials of the Seat of the Ismaili Imamat by the Imam shall be preceded by a consultation with the Portuguese Government and shall be notified to the Ministry of Foreign Affairs according to the procedures applicable to members of diplomatic missions accredited in the Portuguese Republic.
2. The number of Members of the Seat shall be determined by the Imam as may be necessary to enable the Ismaili Imamat to carry out its functions. The Ismaili Imamat will review such number with the Ministry of Foreign Affairs.
3. The Ministry of Foreign Affairs shall issue diplomatic identity cards to the Members of the Seat, according to the functions they perform, the highest level being attributed to Senior Officials and the other levels to the other Members of the Seat as the Minister of Foreign Affairs and the Imam shall establish.

ARTICLE 6

Inviolability of the Premises of the Seat

1. The Portuguese authorities shall take all appropriate steps to protect the Premises of the Seat of the Ismaili Imamat against any intrusion, threats or damage.
2. The Premises of the Seat, as well as the Ismaili Imamat land, air or sea vehicles used for its official functions, are inviolable, except in emergency situations that endanger public order and security, in case of a serious incident or any other event requiring immediate protective measures.
3. The Premises of the Seat cannot be used as a place of refuge for any individual prosecuted for a crime or flagrante delicto or subject to a court warrant, criminal conviction or a deportation order issued by the Portuguese authorities.

ARTICLE 7

Inviolability of files and correspondence

The files and documents as well as the official correspondence of the Ismaili Imam are inviolable at any time and wherever located within Portuguese territory.

ARTICLE 8

Use of distinctive signs

The Ismaili Imam shall be entitled to use distinctive signs, flags and emblems, in the Premises of the Seat as well as on any of the said official vehicles, which shall enjoy a registration status no less favourable than that accorded by the Portuguese Republic to diplomatic missions.

ARTICLE 9

Facilities in respect of communications

The Ismaili Imam shall enjoy on the territory of the Portuguese Republic, for the purposes of its official communications and correspondence, treatment no less favourable than that accorded by the Portuguese Republic to diplomatic missions.

ARTICLE 10

Immunity from jurisdiction and from execution

The Ismaili Imam and its assets shall enjoy immunity from jurisdiction and execution within the scope of its official activities, except:

- a) When the Ismaili Imam expressly waives those immunities;
- b) In the context of cases related to employment contracts;
- c) In a lawsuit brought by a third party with a view to obtaining financial compensation for death and injuries suffered as a result of an accident caused by vehicles owned or used by the Seat, or in case of any offence involving one of those vehicles.

ARTICLE 11

Fiscal exemptions

1. Gifts and bequests made by the Ismaili Imam or the Imam within the context of their official functions or received by the Ismaili Imam or the Imam, as well as income received by them, including capital gains, as well as the assets held by the Ismaili Imam or the Imam, shall not be subject to any tax, including income or wealth tax.

2. Without prejudice to the application of more favourable provisions, granted by the Portuguese Republic to any other religious institution, the provisions of paragraph 1 shall not extend to:

a) Income deriving from any business activity directly exercised in Portugal neither to the assets connected to such activity;

b) Interest and other investment income, either due or paid by any resident in Portugal or effectively connected with the activity of a permanent establishment or fixed base in Portugal, as foreseen in the Portuguese corporate income tax code.

3. The income referred to in paragraph 2 (b) shall be subject to withholding tax, of a final character, in accordance with the corporate income tax legislation of the Portuguese Republic.

4. The Ismaili Imamat shall be exempt from any national or local tax on immovable property as regards the Premises of the Seat.

5. The Ismaili Imamat and the Imam shall be exempt from stamp duty, as well as from any other transfer tax, on the acquisition or sale of movable or immovable properties used or to be used for their official functions.

6. The Ismaili Imamat and the Imam shall be exempt from any taxes or duties on the purchase, ownership, registration, use or sale of land, air or sea vehicles, including spare parts and consumables, used for its official functions.

7. The Ismaili Imamat shall be entitled to a refund of the amounts corresponding to VAT paid on goods, including the vehicles above-mentioned, and services purchased or imported for its official use. The Portuguese Republic will establish the conditions and procedures for the application of such refund.

8. Gifts made to the Ismaili Imamat shall be tax deductible according to the Portuguese legislation applicable to gifts made to religious institutions.

ARTICLE 12

Funds, foreign currency and assets

1. Subject always to the laws and regulations of the Portuguese Republic and of the European Union, namely those regarding the fight against money laundering and terrorism, the Ismaili Imamat may hold funds, securities, gold and other precious metals, or foreign currencies.

2. The Ismaili Imamat shall be free to receive any such values from within or from outside Portugal and hold and transfer the same within Portugal or from Portugal to any country and to convert any currency held or bought into any other currency.

3. This does not preclude the Portuguese Republic from adopting any requirements resulting from its membership of the European Union, including measures prohibiting, restricting or limiting the movement of capital to or from any third country.

Continued after photo below



The agreement establishing Portugal as the seat of the Ismaili Imam took place at the Palace of Necessidades. It is a historical building in the Largo do Rilvas, a public square in Lisbon, Portugal. It serves as headquarters of the Portuguese Foreign Ministry. Palace photo: Wikipedia.

Chapter III: Prerogatives of the Imam and the Members of the Seat

ARTICLE 13

Prerogatives of the Imam

1. The Imam shall be granted the following prerogatives:
 - a) Ceremonial diplomatic treatment accorded in Portugal to foreign High Entities;
 - b) His official residence shall enjoy the same inviolability and protection as the premises of the Seat;

- c) Inviolability of any type of papers, documents or materials as well as of any communications;
 - d) Immunity from any judicial action and legal proceedings in respect of acts done in the performance of his functions for the Ismaili Imam, including immunity from any measures of execution;
2. The direct family members of the Imam shall be accorded the appropriate facilities and courtesy treatment.

ARTICLE 14

Prerogatives of the Senior Officials

The Senior Officials of the Seat shall enjoy such privileges, immunities and facilities as are necessary for the performance of their functions, such as:

- a) Ceremonial treatment accorded to diplomatic representatives of equivalent level and in the same circumstances;
- b) Their residence shall enjoy the same inviolability and protection as the Premises of the Seat;
- c) Inviolability of any type of papers, documents or materials relating to the functions of the Ismaili Imam, as well as of any communications;
- d) Immunity from any judicial action and legal proceedings, including immunity from any measures of execution, in respect of acts done by them in the performance of their functions for the Ismaili Imam;
- e) Exemption from all direct taxes and social charges on salaries, wages and other similar remuneration paid to them in their capacity as Senior Officials by the Ismaili Imam or its Dependent Institutions;
- f) When required by Portuguese or European legislation, facilitation of issuance of visas and residence permits, extended to direct family members.

ARTICLE 15

Prerogatives of the Staff Members

The Portuguese authorities guarantee the protection and necessary assistance to the Staff Members of the Seat with a view to securing the efficient performance of their official functions, including, when required by Portuguese or European legislation, facilitation of issuance of visas and residence permits.

Chapter IV: Cooperation

ARTICLE 16

Support for scientific and economic development

1. The Ismaili Imamatus shall actively support the efforts of the Portuguese Republic to improve the quality of life of all those living in Portugal, particularly through the development in Portugal of world-class research projects in the said area, but more generally on subjects of common interest to the Portuguese Republic and the Ismaili Imamatus.

2. In view of the above, the Ismaili Imamatus shall cause its highest level Dependent Institutions to create a special window devoted to achieving the objectives set out above in cooperation with the relevant Ministries or other entities of the Portuguese Government.

Chapter V: Final Provisions

ARTICLE 17

Joint Committee and Settlement of disputes

The Parties shall establish a Joint Committee composed of six (6) members, three (3) appointed by the Portuguese Republic and three (3) by the Ismaili Imamatus, for the following purposes:

- a) Aiming to guarantee the implementation of the present Agreement;
- b) Settling any differences or disputes concerning the interpretation or application of the present Agreement, with the understanding that, if an agreed solution cannot be found in the context of the Joint Committee, the matter shall be brought to direct negotiation between the Parties.

ARTICLE 18

Amendments

1. The present Agreement may be amended by the Parties by written mutual consent.
2. The amendments shall enter into force in accordance with the terms specified in Article 21 of the present Agreement.

ARTICLE 19

Duration and termination

1. The present Agreement shall remain in force for an unlimited period of time.
2. Either Party may, after an initial period of twenty-five (25) years, terminate the present Agreement upon prior written notice of four (4) years, to be communicated through diplomatic channels. The Parties may by written agreement, modify the length of the said notice time.

ARTICLE 20

Cooperation with competent authorities

The Ismaili Imamate shall fully co-operate with the competent Portuguese authorities, without prejudice to this Agreement, with a view to complying with Portuguese legislation and preventing abuse of the privileges, immunities and facilities granted under the present Agreement.

ARTICLE 21

Entry into force

The present Agreement shall enter into force thirty (30) days after the date of notification in writing by the Portuguese Republic to the Ismaili Imamate, conveying the completion of the constitutional procedures of the Portuguese Republic required for that purpose.

Done in Portuguese and English, in Lisbon, on the 3rd day of June 2015.

For the Portuguese Republic

His Excellency Rui Chancerelle de Machete
Ministry of State and Foreign Affairs

For the Ismaili Imamate

His Highness Shah Karim al-Hussaini
Prince Aga Khan, Forty-Ninth Hereditary
Imam
of the Shia Imami Ismaili Muslims