



## AMENDMENTS TO THE LEGAL REGIME OF ENTRY, STAY, EXIT AND REMOVAL OF FOREIGN NATIONALS FROM THE NATIONAL TERRITORY

Law no. 18/2022, of August 25 (which entered into force on August 26, 2022) introduced the following amendments to the Legal Regime of Entry, Stay, Exit and Removal of Foreign Nationals from the National Territory (Law no. 23/2007, of July 4):

### 1) Visa for Job Seeking

This new type of visa allows one entry into national territory, it is granted for 120 days, extendable for 60 days, and includes an appointment date at SEF (the Portuguese Immigration Office) for the granting of a temporary residence permit.

The holder of this visa is entitled to enter and stay in Portugal to seek a job and is allowed to work and enter into an employment contract within the validity period of the visa or until a residence permit is granted.

The residence permit may be requested after the establishment and formalization of the employment relationship and within the period during which the visa for job seeking remains valid.

If the visa holder fails to establish an employment relationship within the above period, he/she must leave the country, and can only apply for a new visa

for the same purpose one year after the previous visa expires.

The visa for job seeking may be cancelled if the third country national remains in national territory for other purposes than those for which the stay was authorized.

This new type of visa is perhaps the most relevant amendment introduced by Law no. 18/2022, since it allows its holder not only to travel to national territory to seek a job here, but also to carry out an activity under an employment contract during the validity period of the visa.

It is also expected that with the granting of this type of visa, third States' citizens will opt to apply for it instead of presenting an expression of interest when entering national territory (which process, besides being complex, is not rapidly solved.)

### 2) Remote Working / Nomads

The citizen who intends to remotely carry out a subordinate or independent professional activity, provided to an individual or legal entity domiciled or

with head office outside Portugal, can apply for a temporary stay visa or for a residence visa for this purpose.

The applicant must demonstrate the existence of an employment or provision of services contract. Therefore, a statement of mere intention to remotely carry out an activity in national territory will not be sufficient.

The individual can apply for one of two types of visas: in case of a temporary stay visa, it is granted for up to the period of one year, not renewable; if the applicant applies for a residence visa under article 61-B of Law no. 23/2007, the residence permit to be granted thereafter will be valid for 2 years.

This new type of visa/residence permit fills a gap that had been existing for some time – to provide a legal framework to foreign citizens who wish to work remotely in national territory and live here.

### 3) Family reunification

The most relevant amendments are as follows:

- (i) Visa applications for family members intending to accompany the residence visa applicant can be submitted at the same time as the applicant's in the country of origin/residence (no longer depending on the approval of the applicant's residence permit in national territory);
- (ii) Regarding the application for family reunification when the family member is outside Portugal – once the application is granted, SEF shall immediately and electronically communicate the decision to the competent consular post, which must issue the residence visa within ten days;
- (iii) Applicants who present an expression of interest for a residence permit can also indicate family

members who are already in national territory, so that the respective processes can be analyzed simultaneously.

This promotes greater efficiency in the visa issuance processes for family reunification, as well as the possibility of family members' cases being examined simultaneously with the applicant's, thus avoiding prolonged separation of families.

### 4) Residence work visa

The application for a work visa no longer depends on a declaration issued by the Institute of Employment and Professional Training (IEFP, I. P.).

Thus, when submitting the visa application, it is no longer necessary to wait for the job offer availability at the IEFP, I. P. for a period of 15 days, as well as to prove inexistence of job opportunities not filled by Portuguese, EU or EEA Member State citizens, or third country nationals legally residing in Portugal.

However, it is still required to file a promissory employment contract or a labor offer from the employer when presenting the visa application, as well as to fulfill the remaining requirements for the issuance of a residence visa.

This amendment will undoubtedly bring greater celerity to the application for this type of visa.

### 5) Seasonal work

The holder of a short-stay visa or a temporary stay visa for seasonal work has the right to enter and stay in national territory and is no longer bound to carry out the activity specified in the respective visa, but may carry out other activities, at one or successive employers. This implies that the workers will have more flexibility.

## 6) Pre-residence permit and automatic issuance of tax identification, social security, and national health service numbers

At the time the residence visa is granted, a pre-residence permit will be issued, and will contain information regarding the residence permit issuance and the provisional assignment of the tax identification, social security, and national health service numbers.

## 7) Complementary professional activity

Holders of a residence permit for research, study, professional internship, or pro bono activity can, additionally to the activity that constituted the basis for the visa application, execute an independent professional activity or under a work contract.

The possibility to carry out a professional activity is also an important amendment since what was previously denied or subject to prior notification to SEF is now allowed and not subject to any additional requirements.

## 8) Residence permit validity

Regarding the validity of residence permits, some relevant amendments were also approved, namely:

- a) The temporary residence permit will now be valid for two years, renewable for successive periods of three years, without prejudice to special cases provided by law, such as the residence permit for investment activity, which is renewable for periods of two years;
- b) The residence permit for higher education students is now valid for three years, renewable for equal periods, and in cases where the

duration of the study program is inferior to three years, it is issued for the duration of such program;

- c) The residence permit for researchers is now valid for two years, renewable for equal periods, or for the duration of the hosting agreement, if it lasts less than two years;
- d) The EU Blue Card is now valid for two years, renewable for periods of three years;
- e) The residence permit for interns is now valid for six months, or for the duration of the internship program plus three months (if it lasts less than six months), or for two years in case of a long-term internship (in this case, it can be renewed once for the remaining period of the internship program).

## 9) Citizens from CPLP Member States

Citizens from States where the CPLP Agreement (countries in which Portuguese is the official language) is in force enjoy special conditions for the granting of visas, namely:

- (i) SEF's prior validation is waived;
- (ii) SIS (Schengen Information System) databases are directly consulted; and
- (iii) The issuance of the visa can only be denied if there is an indication of a prohibition of entry and stay in the SIS or if the applicant lacks parental consent (in the case of a minor).

The issuance of the visa will be automatically communicated to SEF.

If the applicant is covered by the CPLP Agreement and holds a short-stay visa or holds a legal entry into national territory, he/she can apply for a residence permit valid between ninety days up to one year, renewable for an equal period.

## 10) **British citizens benefiting from the EU-UK Withdrawal Agreement**

Law no. 28/2022 also provides that besides SEF, the Institute of Registration and Notary Affairs (*Instituto dos Registos e do Notariado, I. P.*) and the Citizen Centers (*Espaços Cidadão*) are competent for the issuance and renewal of residence permits for British citizens benefiting from the EU-UK Withdrawal Agreement.

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