

EMPLOYMENT AND LABOUR | REAL ESTATE AND TOURISM

Legislative changes regarding visas and residence permits in Portugal

Law 18/2022 of 25 August has been published and its aim is to (i) create the conditions to implement the Agreement on Mobility between the Member States of the CPLP of 17 July 2021, (ii) amend Law 23/2007 of 4 July, which approves the legal rules for the entry, stay, exit and expulsion of foreigners from Portuguese territory; (iii) amend Law 27/2008 of 30 June, which establishes the conditions and procedures for granting asylum or subsidiary protection, and the status of asylum seekers, refugees and subsidiary protection; (iv) implement into the Portuguese legal system the provisions of Law 27/2008 of 30 June, which establishes the conditions and procedures for granting asylum and subsidiary protection; and (v) incorporate into Portuguese law Regulations (EU) 2018/1860, 2018/1861 and 2018/1862 of the European Parliament and of the Council of 28 November 2018, on the establishment, operation and use of the Schengen Information System. This law came into force on 26 August 2022 and its main points are:

1. Visa for seeking work in Portugal

A new visa is created for a period of 120 days, which can be extended for a further 60 days, which allows entry into Portugal for people who intend to come here to seek work. This visa will enable its holder to enter and remain in Portugal to seek work provided they comply with certain requirements. It authorises the holder to work as a dependent worker until the expiry of the visa or until a residence permit is granted. The visa for job seekers includes

an appointment date with the SEF (Foreigners and Borders Service), within the 120 days referred to above. After the establishment and formalisation of the employment relationship within that period, it entitles the holder to apply for a temporary residence permit, provided that he or she fulfils the general conditions for it to be granted. An employment relationship must be established by the end of the maximum limit of validity of the visa to seek work and the subsequent process of document regularisation must have been started. If this does not happen, the holder of the visa will have to leave the country and can only reapply for a new visa for this purpose one year after the expiry of the previous visa.

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2. Temporary stay and residence visa for “digital nomads”

This law also establishes the possibility of granting a residence visa to employees and self-employed professionals to work remotely. These visas can be issued to individuals or companies with their domicile or registered office outside Portugal. The employment relationship or provision of services relationship, as appropriate, must be demonstrated.

3. Issuance of residence pre-authorisation and consequent automatic allocation of provisional NIF, NISS and SNS numbers based on the residence permit.

Under this law, a residence pre-authorisation is issued upon the granting of the residence visa. This pre-authorisation contains information regarding the obtaining of the residence permit and the provisional allocation of the NIF (tax identification number), NISS (Social Security number) and SNS (National Health Service number).

4. Elimination of quotas in the visa to work as an employee

The new law also abolishes the quota rules for residence visas for work as an employee. This rule had not been applied for around 3 years as a result of the State Budget Law.

5. Creation of the Residence Permit for citizens from the Community of Portuguese Language Countries (CPLP):

Under the Agreement on Mobility between the Member States of the Community of Portuguese Language Countries concluded in Luanda on 17 July 2021 (CPLP Agreement), special conditions for granting visas to nationals of CPLP Member States are introduced:

- The SEF's prior opinion is no longer necessary, and the offices responsible for issuing the visa will consult the Schengen Information System (SIS) databases directly and immediately.
- A refusal to issue a visa may only occur if there is an indication of a prohibition on entry and stay in the SIS, or if the citizen is a minor and does not have authorisation to travel.
- The issuance of the visa is automatically communicated to the SEF.

6. Residence Visa for family members of a holder of a temporary residence visa to accompany the holder

Another significant innovation in this law relates to the creation of a new temporary stay visa to allow the family of the holder of a temporary stay visa to accompany that holder. This visa may be requested simultaneously and will make it easier for family members of citizens who intend to establish themselves in Portugal to accompany them.

In the Expression of Interest in working as an employee or as a self-employed professional, it is now also possible to identify the members of the family of that person who are in Portugal. These family members will then benefit from the presumption of legal entry of the applicant, if applicable.

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7. Duration of residence permits

With this law, the general rule of validity of the residence permits is now:

- o **General rule:** Issued for an initial period (concession) of 2 years, renewable for periods of 3 years. This was already the position set out in the 2020 State Budget, and it has now become definitive. In turn, there are exceptions:
 - i) **Residence Permit for Investment (“ARI” or “Golden Visa”)** is issued for an initial period of 2 years, renewable for equal periods (the 3-year renewal rule does not apply).
 - ii) **Residence Permit for Higher Education** is now issued initially for 3 years and renewable for equal periods, and if the programme has a shorter duration, it will be issued for the duration of the programme.
 - iii) **Residence Permit for Researchers** is initially valid for 2 years, renewable for equal periods or for the duration of the hosting agreement if this is less than 2 years.
 - iv) **Residence Permit for Interns** is initially valid for six months, for the duration of the internship programme, plus a period of three months, if this is less than six months, or for 2 years in the case of a long-term internship. In this case, it may be renewed once for the remaining period of the internship programme.
 - v) **Travel permits for refugees** will now be issued for periods of 5 years (instead of 1 year, as was previously the case), subject to renewals associated with any future renewal of the residence permit. The authenticity control will now be identical to that of the Portuguese electronic passport.

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Finally, in the context of **visas/residence permits for work as a professional employee**, the changes to Law 23/2007 exempt the person in question from the obligation to sign an employment contract or promissory employment contract before entering Portugal. Employers are therefore no longer obliged to make a job offer available at the IEFP (Institute for Employment and Professional Training) for a period of 30 days, when their final objective is to hire a specific foreign national.

Similarly, in relation to the granting of **visas/residence permits to work as a self-employed professional**, the person in question also does not need to present a contract for the provision of services or demonstrate that he or she is the recipient of a contractual proposal.

The mechanism of the Expression of Interest maintains its wording and insertion in Law 23/2007. It therefore continues to be a way of obtaining residence in Portugal, although we may see less use being made of this route in the future, due to the innovations introduced by Law 18/2022 of 25 August. ■