



## TELECOMMUNICATIONS, MEDIA AND TECHNOLOGY (TMT)

# TECH VISA: NEW PROGRAMME TO ATTRACT TALENT

*The Tech Visa is intended to bring greater efficiency to the granting of residence visas or residence permits for highly qualified immigrant workers that wish to work in Portugal. It therefore helps companies to attract and retain specialist talent.*

The Tech Visa programme was approved by Ministerial Order 328/2018 of 19 December. This programme defines the system of certification of technological and innovative Portuguese companies wishing to bring in nationals of third states to do highly qualified work in Portugal.

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Under the law, eligible companies are defined as “companies that engage in activity in the area of technology and innovation that wish to recruit highly qualified nationals of third states”. As from 2 January, under the Tech Visa Programme these companies can make applications using the platform created for this purpose on the website of IAPMEI, I.P. (the Portuguese Institute to Support Small and Medium-Sized Companies and Innovation). The IAPMEI is then responsible for certifying companies that will have access to this programme by entering into a contract of employment.

The main certification criteria that companies must comply with in order to apply for the Tech Visa Programme, as defined by the above Ministerial Order, are to:

- Be engaged in the production of goods and services that can be internationalised;
- Demonstrate their technological and innovative base by meeting at least two of the following requirements (i) be a start-up created at least two years ago in a high or medium-high technology sector, or with a strong knowledge intensity, (ii) possess more than 15% of highly qualified workers (level VI), (iii) have an average annual growth in turnover exceeding 20% in the last three years, (iv) have raised venture capital investment over the last three years, (v) have investment projects or proposals approved in the last three years in the context of Portugal 2020, the programme to be created under the Multi-Annual Financial Framework of the European Union in force until 2027, in the areas of Productive Innovation, Qualified and Creative Entrepreneurship or Business R&D, the Portuguese SIFIDE (System of Tax Incentives for Business R&D or the Innovation Framework Programmes of the European Union);
- Obtain a positive assessment of the application based on the three assessment criteria laid down: market potential, degree of technological innovation and orientation towards foreign markets.

The Tech Visa Programme defines highly qualified workers as those: (i) whose work requires specialised technical skills, skills of an exceptional character or a qualification suitable for the work in question (see Law no. 23/2007 of 4 July); (ii) who have a minimum level of qualification level V or level IV (professional university level technical course, or minimum experience of 5 years) in accordance with the ISCED-2011; (iii) who are nationals of a third state and are not permanent residents in the EU; (iv) who have a contract of employment or the promise of a contract of employment with a minimum duration of 12 months and have a minimum annual salary equivalent to 2.5 times the Social Support Index.

The application, which can be submitted until the end of 2019, will be analysed by the IAPMEI, within 20 working days of it being submitted through the platform created for this purpose. The certifications issued by the IAPMEI are valid for two years and when this term expires, it is possible to submit a request for renewal.

The SEF (Foreigners and Borders Service) and the Directorate General for Consular Affairs and Portuguese Communities are the bodies that, together with the IAPMEI, form the Monitoring Committee for the implementation of the Tech Visa Programme.

Companies from the interior of the country wishing to benefit from this programme can simultaneously hire up to 80% of their workers under the Tech Visa Programme. The remaining companies may not exceed 50%.

Once it has the certification, the company can issue statements of responsibility - in the form made available electronically by the IAPMEI - to the foreign citizens it wishes to hire. It is no longer necessary to obtain a prior opinion, issued in advance by the Foundation for Science and Technology, which was responsible for classifying the work as qualified. This speeds up the process with the authorities.

The statement of responsibility must accompany the application for a visa or residence permit and it is valid for 6 months.

However, the residence visa for highly qualified work under article 61(1)(a) and (b) of Law 23/2007 of 4 July will continue to exist, and foreign workers can still use it if companies do not obtain the above certification.

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Financial Times - Innovative Lawyers Awards 2017-2011