

OCTOBER 17<sup>TH</sup>, 2022

## AMENDMENTS TO THE LEGAL REGIME OF ENTRY, RESIDENCE, DEPARTURE AND REMOVAL OF FOREIGNERS FROM THE NATIONAL TERRITORY (REPSAE)

On August 26<sup>th</sup>, 2022, Law No. 18/2022, of August 25<sup>th</sup>, entered into force, amending Law No. 23/2007, of July 4<sup>th</sup>, on the Regime of Entry, Residence, Exit and Removal of Foreigners from the National Territory (RESDRF).

The main objective of this amendment is to facilitate the processes of obtaining Visas and residence permits for foreigners from third States, in order to *"to attract regulated and integrated immigration for the development of the country, change the way the Public Administration relates with immigrants, and ensure conditions for the integration of immigrants"* and *"achieve the objectives enshrined in the Agreement"*<sup>1</sup> on mobility between Member States of the Community of Portuguese Language Countries (CPLP).

In that sense, the Regulatory Decree no. 84/2007, of November 5<sup>th</sup>, was also amended by Regulatory Decree No. 4/2022, of September 30<sup>th</sup>, which regulates Law No. 23/2007, of July 4<sup>th</sup>.

With this Newsletter we intend to highlight and explain some of the amendments to the RESDRF which we consider to be the most relevant.

### **1. Creation of the "Visa for job search"**<sup>2</sup>

A new type of visa was created – Visa for job search – which entitles its holder to enter and remain in national territory, with the purpose of seeking work, also authorizing him to carry out a dependent work activity, until the expiration of the visa or until a residence permit is granted.

This visa, granted for a period of 120 (one hundred and twenty) days, extendable for another 60 (sixty) days, allows legal entry in Portugal and is granted abroad.

With this visa the Applicant is granted the right to apply for a temporary residence permit,

---

<sup>1</sup> Cf. preamble of Law no. 18/2022 of August 25.

<sup>2</sup> Article 57-A, al. f) of Law no. 23/2007 of July 4, in its current wording, amended by Law no. 18/2022 of August 25, in conjunction with Article 23-C of the Regulatory Decree no. 84/2007 of November 5, in its current wording, amended by Regulatory Decree no. 4/2022 of September 30.

provided that the general requirements for its granting are met<sup>3</sup> and once the employment relationship has been formalized in the validity period of the visa. For this, when the visa is granted by the competent foreign entities, an appointment date is also designated at the competent services for the granting of residence permits, which must occur within the validity period of the visa - 120 (one hundred and twenty) days.

If, in the period of validity of the visa and/or its extension, the Applicant does not obtain an employment relationship, he will have to leave the national territory, and can only submit a new visa application for the same purpose 1 (one) year after the expiration of the previous one.

## **2. Simplification of the mechanism for granting a Residence Visa for professional activity**

Concerning residence visas for the exercise of a subordinated professional activity<sup>4</sup>, the new Law revokes some of the provisions so far in force, and now allows citizens who meet the general requirements necessary to obtain any visa, and who have a promise or contract of employment, or an individualized expression of interest from an employer, to obtain that visa.

Moreover, employers are exempted from having to make a job offer available at the Institute of Employment and Professional Training, I.P (IEFP) for a period of 30 (thirty) days when they intend to hire a specific foreign citizen.

The provisions regarding the mechanism of the application for a residence permit with exemption from the visa requirement after the foreign citizen has entered Portuguese territory, by means of an expression of interest, remain in force. However, we recall that, since this is a long process (about 2 to 3 years for its completion), the citizen who leaves Portugal during its pendency may not be allowed to re-enter the country.

It is expected that, with the entry into force of the amendments under analysis, the expression of interest will become a less requested mechanism, given the new, simpler, and faster options that Applicants now have to apply for a residence permit in Portugal.

---

<sup>3</sup> Article 52 of Law no. 23/2007 of July 4, in its current wording, amended by Law no. 18/2022 of August 25.

<sup>4</sup> Article 59 of Law no. 23/2007 of July 4, in its current wording, amended by Law no. 18/2022 of August 25, in conjunction with Article 30 of the Regulatory Decree no. 84/2007 of November 5, in its current wording, amended by Regulatory Decree no. 4/2022 of September 30.

### **3. Creation of the "residence visa for the exercise of professional activity provided remotely outside the national territory"<sup>5</sup>**

It has now become possible, for subordinate and self-employed workers that exercise their professional activity provided remotely to natural or legal persons with their domicile or head office outside national territory, to apply for a residence visa/temporary stay visa, as long as they can demonstrate the existence of the employment link or the provision of services, as the case may be.

This visa has a duration of 2 (two) years, renewable for successive periods of 3 (three) years.

Under the previously existing regime, only residence and temporary stay visas for self-employment were foreseen, which presupposed the provision of services to natural or legal persons with domicile or head office within national territory, and also the D7 Visa, intended primarily for retired foreign citizens or those who demonstrated to live off their own income (rents, financial investments).

### **4. Creation of the "Residence Permit for Citizens of the Community of Portuguese Language Countries"<sup>6</sup>**

When the Visa Applicant, regardless of its nature, is a national of a State covered by the CPLP Agreement (Angola, Brazil, Cape Verde, Guinea-Bissau, Equatorial Guinea, Mozambique, Sao Tome and Principe and Timor-Leste), special visa conditions for granting visas are foreseen, namely:

- a) The prior opinion of the Foreigners and Border Service (SEF) is waived;
- b) The visa-issuing services shall directly and immediately consult the Schengen Information System (SIS) databases;
- c) The visa can only be refused if there is an indication of a prohibition of entry and stay in the SIS, or if the citizen is a minor and is not authorized to travel.

With the suppression of the above listed formalities, the waiting time for visa issuance is expected to be significantly reduced.

---

<sup>5</sup> Article 61-B of Law no. 23/2007 of July 4, in its current wording, amended by Law no. 18/2022 of August 25, in conjunction with Article 31 of the Regulatory Decree no. 84/2007 of November 5, in its current wording, amended by Regulatory Decree no. 4/2022 of September 30.

<sup>6</sup> Article 52-A of Law no. 23/2007 of July 4, in its current wording, amended by Law no. 18/2022 of August 25, in conjunction with Article 51-A of the Regulatory Decree no. 84/2007 of November 5, in its current wording, amended by Regulatory Decree no. 4/2022 of September 30.

## **5. The residence visa for the Residence Visa Applicant's accompanying family member**

Under the new Article 58(5), the Residence Visa may now be granted to a family member of the Applicant for a Residence Visa.

A residence permit valid for 2 (two) years, renewable for successive periods of 3 (three) years, is issued to the family member of the permanent residence permit holder. The previous regime provided for a similar authorization.

We also emphasise the right of family members to an autonomous authorization, of the same duration as that of the holder of the right to family reunification, whenever the latter has minor children residing in Portugal. This right has also been extended to unmarried partners of more than five (5) years.

## **6. Issuance of residence pre-authorization and provisional assignment of NIF, NISS and User Number**

The granting of a residence visa involves the issuance of a residence pre-authorization permit, which contains information regarding the obtaining of the residence permit and the provisional attribution of tax identification, social security and national health service numbers.

For instance, the family reunification visa, which is now decided by the SEF (which previously only gave an opinion), is immediately accompanied by the automatic assignment of tax identification (NIF), social security (NISS) and the National Health Service (User No.) numbers.

---

**Pares | Advogados** is available to provide additional information on the matter covered by this Newsletter, in a more concrete and adequate manner to the reality of each Client.

---

**Natacha Vilaça Clemente**  
[nc@paresadvogados.com](mailto:nc@paresadvogados.com)

---

This Newsletter is addressed to clients and lawyers, not constituting advertising, and its copy, distribution or other form of reproduction is forbidden without the express authorization of its authors. The information provided is of a general nature and does not dispense legal advice prior to any decision being taken in respect of the matter under consideration. For further clarification please contact **Natacha Vilaça Clemente** ([nc@paresadvogados.com](mailto:nc@paresadvogados.com)).