

May 2018

## **Newsletter**

### **Entrepreneur Application Regime under the Startup Visa Program**

*Condition and Scope under the Legislative Order no. 04/2018, of February 2<sup>nd</sup>*

This Newsletter aims to complete, bearing in mind the latest legal developments in the Startup Visa program, the Newsletter of November 2017, in which we addressed the topic of “Residence Permit for Entrepreneurs (Startup Visa) - Startups Incubator Certification System in Portugal” <sup>(1)</sup> and the Newsletter of January 2018, in which is addressed the topic “Startups Incubator Certification System in Portugal” <sup>(2)</sup>.

#### **1. Application Scope**

The Startup Visa program has, as basic criteria, the intention to create an innovative project in Portugal, being applicable to foreign entrepreneurs<sup>(3)</sup> who have not yet created a company, as well as to the entrepreneurs who already created a company in a foreign country but want to establish their economic activity in Portugal.

#### **2. Eligibility Requirements**

At the time of application, which may be submitted individually or jointly with others (with a maximum number of 5 entrepreneurs by application), the entrepreneurs must comply with the following requirements:

- Having complied with their tax obligations and lack of criminal record;
- Age over 18 years old; and
- Own adequate financial and sustenance resources.

The entrepreneurs must also demonstrate that:

- They have real interest in developing a production of goods and services activity, aimed towards internationalization;
- They intend to create companies and/or projects focused in technology and knowledge for the development of innovative products;

---

<sup>1</sup> Link: <https://www.paresadvogados.com/pt/comunicacao/know-how/>

<sup>2</sup> Link: <https://www.paresadvogados.com/pt/comunicacao/know-how/>

<sup>3</sup> Entrepreneurs with permanent residence outside the Schengen area.

- There is interest, by at least one certified incubator in the entrepreneurial project;
- The project has the potential to create qualified employment; and
- The project has the potential to achieve, until 5 years after the start of the incubation's contract, a turnover over 325,000€/ year and/or an asset value over 325,000€/ year.

The entrepreneurs that have already started up a business in other countries, must also demonstrate that:

- The company was created less than 4 years ago, being in its start-up phase;
- They have the potential to create at least 5 new jobs within the period of 24 months;
- They have executive functions in the company and/or equity capital (in the act of the company's incorporation) or right to vote equivalent to at least 10% of the share capital; and
- The legal accounts of the company in the last fiscal year before the application report a positive net situation.

### 3. Application Procedure

The application procedure will take place during the civil year of 2018 and shall be executed by the submission of an electronic application (available in the Startup Visa program platform)<sup>(4)</sup>. The list of the certified incubators (also in the Startup Visa program platform) and the access to the entrepreneurs for analysis purposes will be previously published.

At the time of the application submission, the entrepreneurs must present the documents that prove the fulfillment of the eligibility requirements, as set forth in Point 2. above.

The entire process will be carried out based on the information presented by the entrepreneurs in the respective application forms. However, it should be noted that, in the event the entrepreneur presents false statements, he will be barred from submitting

---

<sup>4</sup> Link: <https://webapps.iapmei.pt/StartupIncubadoras/Incubadoras/Account/Login.aspx>

a new application again for a period of 3 (three) years.

#### 4. Application Selection

As set forth in the Legislative Order no. 04/2018, the analysis and decision on the applications' compliance with the necessary requirements will be carried out by IAPMEI, that within a period of 30 (thirty) days after the submission of the application must issue a decision and publish it on the Startup Visa program platform.

#### 5. Incubation Contract

After the application being approved, it will be allowed to the entrepreneurs to conclude an incubation contract with the certified incubators, which must be set out in writing and contain:

- The obligations of the entrepreneur;
- The obligations and services rendered by the certified incubator;
- The value of the contract; and
- The appointment of the person responsible for monitoring the project within the certified incubator.

The incubation contract has an initial duration of one year, being successively renewable for similar periods, by agreement of the parties, as long as the incubator remains certified.

**Rui Rompante**

[rr@paresadvogados.com](mailto:rr@paresadvogados.com)

**João Fernandes Thomaz**

[jft@paresadvogados.com](mailto:jft@paresadvogados.com)