Work and Residence Permits for Foreigners
Table of Contents

01 Introduction
02 General Scheme for Aliens
03 EU Scheme
04 Where to carry out the procedures
01. Introduction

Working in another country is always an interesting experience, both personally and professionally where you come into contact with other cultures. However, sometimes you may find yourself facing unpleasant surprises, and that's why it is advisable to get to know the legal, work and business situation of the host country.

There are two schemes applicable to aliens who come to live and work in Spain: the general scheme of aliens, and the EU scheme. The EU scheme applies to citizens of EU member states, EEA citizens or citizens from the Swiss Confederation who are entitled to live in Spain with no procedure required as well as to work freely either as an employee or as a self-employed worker. The rest of aliens need to apply for a work permit, in addition to the residence permit, in order to be able to carry out any gainful work or professional activity in Spain, either as a self-employed worker or as an employee.

This report sets out the conditions required to work under the general scheme of aliens and the EU scheme.
02. General Scheme for Aliens

The general scheme of aliens is the scheme that applies to non-EU citizens, non-EEA citizens or citizens from outside the Swiss Confederation.

They may remain in Spain in a situation of stay or residence.

Aliens in a situation of stay enter Spain on a visa that permits them to remain in the country for at most 90 days per six-month period. They cannot work as an employee or as a self-employed worker, nor obtain any type of social benefits. The situation of stay also includes student visas which can have a longer validity.

Residency for aliens in Spain can be temporary or permanent:

- A temporary residence permit entitles a person to remain in Spain for more than 90 days and less than 5 years.
- A permanent residence permit entitles a person to live in Spain indefinitely and to work in the same conditions as any person with Spanish citizenship.

It is important to point out that whereas the permanent residence permit entitles a person to work either as a self-employed worker or as an employee, the temporary residence permit does not give authorisation to work in Spain. In order to be able to work in Spain, a foreigner under temporary residency must obtain a residence and a work permit, which can be either as a self-employed worker or as an employee. We will now look at how these temporary residence and work permits function.

Temporary residence and work permit as an employee

Work permits as an employee can be obtained in three different ways:

General scheme

In this case, an initial temporary residence and work permit as an employee must be obtained. The permit has a validity of one year and can be renewed twice, each time for a period of two years (in total the temporary residency can be for 5 years).

The initial temporary residence and work permit as an employee has a validity of one year and can be limited to a specific geographical area and sector of activity. To obtain one it is necessary to have a job offer, to prove that the employment situation allows it and that the applicant is not in an irregular legal situation in Spain.

‘Employment situation’ refers to the directory of occupations that are difficult to cover which is produced every three months by the National Public Employment Service for each province. The directory is produced using the information provided by the public employment services of the regional governments based on the job offers which companies submit to these services.
The classification of an occupation as one that is difficult to cover means the work and residence permit can be issued to the foreigner.

The company intending to hire the foreigner has to submit the application form to the Aliens Office in the Employment Departments of national government offices in the province. Within one month from notice of favourable decision to the company, the worker must apply for a work visa in the diplomatic delegation or consular office for the area where they live in their country of origin. Once the visa has been granted, they are required to enter Spain within the next three months.

The residence and work permit can be renewed twice, each time for a period of two years.

Renewal of the residence and work permit can be applied for in a period of 60 calendar days prior to the expiry date of the permit, or within three months after the date on which the previous permit expired. This permit entitles a person to carry out any activity in any part of Spain.

If the Spanish government fails to respond to the renewal application within a period of three months from the application date, it is understood that the decision is a favourable one. This is a case of constructive grant of authorisation and the applicant will need to apply for a certificate accrediting renewal on these grounds.

**Quota**

This is the process for the programmed hiring of workers who are not in Spain or who do not live in Spain. A selection process in the countries of origin is carried out on the basis of the job offers made by companies. These offers can be general (including as many jobs as the company is trying to fill) or by name (specifically aimed at one person).

Those hired obtain an initial residence and work permit as an employee valid for one year. This permit is limited to a specific geographical area and sector of activity.

The quota agreement provides for issuing visas which authorise a person to come to Spain to look for a job for a period of three months. If they do not find employment during this period, they have to leave the country.
Fixed-term temporary residency and work as an employee:

This permit is valid for the following activities:

- Seasonal or campaign jobs.
- Works or services for setting up industrial or power plants, construction of infrastructures, buildings and power supply, gas, railway and phone networks, installation and maintenance work for production equipment, as well as commissioning and repair.
- Temporary jobs for top management personnel, sportspeople, professionals and other groups specified by order of the Spanish Ministry of Labour and Social Affairs.
- For training and internships.

Once the work relationship is over, the worker is required to go back to their country of origin and this will be confirmed by the visit of the worker to the office which issued the visa in the country of origin. It is important that this obligation is fulfilled, since not going back can be grounds for being denied potential work permits in the future.

Temporary residence and work permit as a self-employed worker

This type of permit entitles the person to do self-employed work. The application procedure is similar to that required for a residence and work permit as an employee, although it also includes an initial permit valid for one year with two possible renewals of two years each.

The requirements for obtaining a temporary residence and work permit as a self-employed worker are as follows:

- Meeting the requirements demanded by current legislation of Spaniards for the establishment and operation of the planned activity.
- Being professionally trained or having enough proven experience in the professional activity as well as having the requisite qualification for occupations which require specific approval and membership of a professional association if need be.
- Demonstrating that the investment anticipated for establishment of the project is sufficient as well as its impact on job creation if required.
- Having certification confirming membership of a professional association in the case of carrying out independent professional activities which require it.
- Proof that carrying out the activity will generate sufficient economic resources to house and support the applicant from the first year.
- Not having a criminal record in Spain or in other countries where they have previously lived for crimes recognised in Spanish legislation.
- Not being in Spain in an irregular situation.
Access to a temporary residence and work permit as a self-employed worker is open to people who are resident and non-resident aliens in Spain.

Non-resident aliens need to apply for an initial temporary residence and work permit as a self-employed worker at the Spanish consular office for their place of residence. The following documents must be attached to the application:

- Copy of passport or valid travel document.
- Certificate of criminal record or equivalent document issued by the authorities of the country of origin or the countries where they have lived in the previous 5 years.
- Health certificate.
- Officially approved qualifications or credentials as proof of having the required training for performing the occupation when needed.
- Proof of having the economic investment necessary for the start up of the project or sufficient assistance from financial institutions or others.
- Plan for the establishment or activity to carry out, indicating the investment forecast, the expected return and, where applicable, the jobs that are to be created.
- List of the permits or licences required for the establishment, start-up or operation of the planned activity or the professional practice, indicating the stage of processing the application has reached. Certifications of application to the corresponding organisations should be included if possible.

The issued permit has a validity of one year and can be renewed twice, each time for a period of 2 years.

In the case of foreigners already resident in Spain, the application is made directly to the Aliens Office and the procedures may vary depending on whether the person has a work permit or not.
If the person has a temporary residence permit without a work permit, in order to apply for a work permit as a self-employed worker they have to be resident in Spain for at least one year (except in the case of foreigners who are resident due to family reunification, in which case there is no one-year-stay rule). The application has to be presented in the Aliens Office of the corresponding province together with the same documents as in the case of foreigners that are non-resident, except for the certificate of criminal record and the health certificate. Documents that prove residency in Spain also have to be presented.

If the person already has a work permit as an employee, they can switch to a work permit as a self-employed worker as long as the initial application has been renewed or the application is submitted when it is time to renew the permit (initial or renewed) they have at that moment.

The application to change to self-employed worker has to be submitted at the Aliens Office of the corresponding province together with the same documents as in the case of foreigners that are non-resident.

In the case of applying for a change in a work permit that has been already renewed, the change does not extend the validity of the permit, but its characteristics change during the period of time when it is still valid.

In the case of applying for the change to self-employed worker at the moment of applying for the work permit renewal, the permit will be valid for two years.

There is also the option to combine residency and work as an employee with residency and work as a self-employed worker in the case of foreigners who want to carry out activities as an employee and as a self-employed worker at the same time. In this case both permits have to be obtained, proving that it is compatible to carry out both activities based on their purpose and characteristics, length and working day. The application to combine work as an employee and as a self-employed worker has to be presented at the Aliens Office of the corresponding province together with the same documents as in the case of foreigners that are non-resident.

The initial residence permit has a validity of one year and can be renewed twice, each time for a period of 2 years. To do this, continuity in the activity of the permit that is being renewed and meeting tax and Social Security obligations must be proven.

The application for renewal must be made to the relevant authority 60 calendar days prior to the expiry date of the permit or within three months after expiry, although this does not mean that the person applying cannot be penalised in this case. If the Spanish government fails to respond to the renewal application within a period of three months from the application date, it is understood that the decision is a favourable one. This is a case of constructive grant of authorisation and the applicant will need to apply for a certificate accrediting renewal on these grounds.

Permanent residence permit

Once the temporary residency period is over (as mentioned previously, it is valid for one year plus two extensions of two years each), it is possible to apply for permanent residency which entitles the person to live in Spain indefinitely and work in the same conditions as Spanish
citizens. The requirement to be eligible for this type of residency is having lived legally and continuously in Spain for the past five years (continuously means that the person has not been outside Spain for periods longer than six months, as long as the total sum of the periods of absence does not exceed one year out of the five that are being considered for the calculation, except when these absences have taken place irregularly).

Foreigners holding a permanent residence permit have to apply to renew their identity card every five years.
03. EU Scheme

This is the scheme applicable to foreigners from other member states of the European Union (EU) or the European Economic Area (EEA) Agreement, and citizens of the Swiss Confederation and their relatives. Beneficiaries of the EU scheme have the right to freely enter and leave Spanish territory, as well as to freely circulate and live in it. The Scheme also gives them the right to engage in any economic activity, either as an employee or as a self-employed worker, in the same conditions as people with Spanish citizenship.

In order to work as a self-employed worker or as an employee in Spain, they only have to register with the Alien Registry.

Beneficiaries of the EU scheme have the right to permanent residency in Spain after they have legally lived in Spain for a **continuous period of 5 years**.

**Scheme for the relatives of an EU citizen**

The following relatives of an EU citizen who do not have citizenship of any other member state of the European Union (EU), the European Economic Area (EEA) Agreement or the Swiss Confederation have the right of residency in Spain:

- Spouse or partner with whom the EU citizen has a relationship similar to the marital one, registered in a public register established for this purpose in any EU member state,

- Descendants of the EU citizen or of the registered spouse or partner who are under 21 or older if they are either in their care or incapacitated

- Forebears of the EU citizen or of the registered spouse or partner who are in their care.

The conditions for being able to work as a self-employed worker or employee are:

- The spouse or registered partner as well as descendants of the EU citizen who are under 21 (or descendants of their spouse or registered partner) are able to work either as a self-employed worker or as an employee in the same conditions as people with Spanish citizenship.
- Forebears and descendants of the EU citizen who are 21 or older (or those of their spouse or registered partner) cannot work as a self-employed worker or as an employee, unless it is proved that the income received is not essential as a means of support, and in the case of full-time job contracts when these are not longer than three months per year and do not have continuity as an occupation in the labour market.

The relatives of an EU citizen can apply for permanent residency after having legally lived in Spain for a continuous period of 5 years.
Where to carry out the procedures

When the applicant is in Spain, the procedure can be carried out at the **Aliens Offices (oficines de persones estrangeres):**

- Oficina de persones estrangeres a Barcelona  
  Av. Marquès d’Argentera, no. 4  
  08003 Barcelona  
  Tel.: 93 520 14 10

- Oficina de persones estrangeres a Girona  
  Av. Jaume I, no. 17  
  17071 Girona  
  Tel.: 972 069 140

- Oficina de persones estrangeres a Lleida  
  Av. Prat De Riba, no. 36  
  25004 Lleida  
  Tel.: 973 959 230

In Tarragona the procedure can be carried out at:

- Unitat d'estrangeria (Aliens Unit)  
  Pl. Imperial Tarraco, no. 3  
  43005 Tarragona  
  Tel.: 977 999 149

- Tarragona provincial police station  
  Pl. Orleans, 2  
  43005 Tarragona  
  Tel.: 977 24 86 15

- Reus police station  
  C/ General Moragues, 54  
  43203 Reus  
  Tel.: 977 32 75 22

- Tortosa police station  
  Parque Teodoro González, 3  
  43500 Tortosa  
  Tel.: 977 44 82 56

In addition the Secretariat of State for Immigration and Emigration in the Ministry of Labour and Social Security provides foreigners with information about the various procedures on its website [http://www.empleo.gob.es/es/sec_eml/areas/inmigracion/index.htm](http://www.empleo.gob.es/es/sec_eml/areas/inmigracion/index.htm)

Written by the Barcelona Activa team using the following sources of information:
19. Work and Residence Permits for Foreigners

Start-up Docs


- [www.intermigra.info/](http://www.intermigra.info/)


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