

Recruitment of Foreign Workers in Spain

In an increasingly globalized world where the development of know-how is outsourced, companies more often require the hiring of foreign personnel to cover permanent positions or to carry out fixed-term projects. Spanish law offers an extensive and abundant framework of requirements and exceptions. The success of foreign hiring depends largely on the appropriate choice of hiring method, which in practice can be classified in two categories:

a) Work permits for employees.

This is a regulated permit under the general regime for foreigners. Its process is channeled through the common procedures established by the Law, which is the reason why their resolution periods are long (three months and usually extended in practice) and in most cases it requires companies to prove that there is no Spanish personnel qualified to fill the vacancy (national employment situation).

The maximum initial validity of this permit is 1 year, which is always limited by the duration of the work contract and subject to renewal for another two years. Family members who are going to reside in Spain with the foreign worker may be grouped together, although it is not possible to apply simultaneously for said permits and they must wait until the application is approved.

Bearing in mind other options provided in Spanish law, the ordinary procedure is not currently the most flexible one, except in those cases where the national employment situation does not need to be analyzed (as is the case with nationals from Peru or Chile considering the specific bilateral agreements in this aspect), or when the foreigner is already in Spain with another type of residence permit, always taking into account each case and the length of the residence permit in Spain.

It is important to note that the validity of the permit is conditional upon obtaining the corresponding visa in the country of origin and registration with the social security authorities upon entry into Spain.



b) Work permits for highly qualified professionals.

This is a permit designed for the recruitment of highly qualified foreign personnel with shorter resolution periods and fewer bureaucratic requirements that do not depend on the technical qualification of the employee. In broad terms, the administration focuses its analysis on:

- **Technical skills:** The functions to be performed by the employee, his or her status as highly qualified, superior qualifications (undergraduate or graduate) from universities and business schools of recognized prestige, as well as any documents that contribute to prove the experience or training of the employee. The regulated professions will require the corresponding homologation.
- **Salary conditions and "need of the company to cover that position with that person".** The Administration has specified that in the employment contract or firm offer of employment the salary is at least 54,200 euros for directors and managers and 40,100 euros for other technicians and professionals. However, these amounts will be subject to a reduction coefficient of 0.75 for SMEs considered and accredited as being in a strategic sector and for workers up to 30 years of age.

This permit gives the applicant the right to reside and work for an initial maximum period of 2 years. Said permit is limited by the end date of the contract and extendable for periods of another two years each. Likewise, this permit provides the possibility of applying for permits for the employee's family members' together with employee's application. These permits entitle all applicants of working age to work.

The resolution timeframes for this permit are much more expeditious, considering the procedure may be carried out online and that there is a foreseen 20 working days term for its resolution. It is understood that in case the administration does not respond within this term, the permit is granted.

Since the adoption of the Law in September 2013, this route has become the preferred option for large companies to hire foreign personnel. In 2019, the sectors with the highest demand for foreign IT and Telco workers, from artificial intelligence to architectures, data processing and security areas, essential for any business and technology strategy, and the most common countries of origin are Venezuela, Brazil and Colombia.

Another advantage is the possibility of avoiding the need to apply for a visa in the country of origin by making the application "in country" (in those cases where it is possible) as well as the possibility of applying for the employee's family permits together with the employee's application. This permit entitles all applicants of working age to work.