



DIPUTACIÓN
DE ALICANTE

Residing in Spain





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(Text drawn up in accordance with the legislation in force on April, 2019)

1. RESIDING IN SPAIN

Any person of non-Spanish nationality who wishes to reside in Spain must meet a number of requirements and provide various documents in order to obtain a residence permit. It is the responsibility of the Ministry of the Interior to issue residence permits to foreign nationals in Spain.

There are two different legal regimes governing residence in Spain:

- Citizens with nationality of any European Union State, Switzerland or the States that are party to the Agreement on the European Economic Area (EEA agreement), namely Norway, Iceland and Liechtenstein. The EU regime applies to these citizens.
- The general regulations on immigration apply to all citizens of nationalities other than those listed above, without prejudice to special circumstances that have their own regulation, e.g. diplomatic staff or refugees; such cases will not be discussed in this guide.

Although we are talking about residence here, it is important to distinguish between these two terms:

- **Residence (residencia):** which means remaining in Spanish territory permanently.
- **Stay (estancia):** which refers to a stay of no more than 90 days in Spanish territory, in most cases by tourists and students, although certain special considerations apply to the latter. Stays can be extended within the limits established in the regulations.

2. RESIDENCE IN SPAIN FOR FOREIGN NATIONALS. GENERAL REGIME

The residents covered by this regime are foreign nationals in Spain who are authorised to reside in this country. Residents can either have temporary residence or long-term residence (also known as permanent residence).

Temporary Residence

A temporary residence permit is granted to foreigners who are authorised to remain in Spain for more than ninety days but less than five years, without prejudice to the regulations on study stays.

There are several types of temporary permits, the most common being:

- Non-lucrative temporary residence permit (Autorización de residencia temporal no lucrativa)
- Temporary residence permit due to family reunification (Autorización de residencia temporal por reagrupación familiar)
- Temporary residence and work permit (Autorización de residencia temporal y trabajo por cuenta ajena)
- Temporary residence permit due to exceptional circumstances (Autorización de residencia temporal por causas excepcionales)

The main requirements, documentation and procedure to apply for each of these types of residence permit are described below.

Non-lucrative temporary residence permit

This relates to temporary residence not involving employment or professional activities, and applications are normally submitted to the Spanish Embassy or Consulate in the person's country of origin.

The applicant should not be residing in Spanish territory illegally or have a criminal record. Likewise, applicants are required to have a public or private insurance policy that covers them while in Spain and they must not have any disease that poses a serious risk to public health.

Foreign nationals who wish to reside in Spain without working or carrying out any lucrative activity must have sufficient economic resources to last for the requested period of residence or proof of a regular source of income for themselves and their family, if applicable.

The following documents must be provided together with the application:

- o Valid passport that will remain valid for at least one year
- o Police clearance certificate
- o Documents providing proof of sufficient economic means and medical insurance
- o Medical certificate

The Authorities will send the application to the Regional Government Office (Delegación de Gobierno) of the area where the foreign national wishes to reside. They will then have one month to issue their decision; administrative silence means the application has been turned down.

Once authorisation has been granted, the visa will be issued and must be collected within one month by the applicant in person, who must enter Spain while the visa is valid and should apply for the Foreigner's Identity Card (Tarjeta de Identificación de Extranjero - TIE).

Temporary residence permit due to family reunification

Foreign nationals are in this situation when they are authorised to stay in Spain as a relative of another foreign national already legally residing in Spain.

Family members who can be reunited with a foreigner already legally residing in Spain are:

- Spouse, as long as the couple has not effectively and legally separated. In no case will more than one spouse be granted residence on these grounds.
- Civil partner, provided that they are registered in an established public registry.
- Offspring of the applicant or of his/her spouse or civil partner, provided they are under 18 years of age or have a disability, or minors or disabled persons under their guardianship or legal representation.
- Parents of the applicant or of his/her spouse or civil partner, when they are under their charge, over 65 years of age and when there are good reasons to justify the need to authorise their residence in Spain

Foreigners applying for a residence permit due to family reunification must prove that they have sufficient economic resources to meet the family's needs, including health care if they are not covered by the Social Security system, and that they have an adequate living space to meet their needs and those of their family.

The documentation to be provided together with the application includes:

- o Copy of the applicants' passports
- o Documentation accrediting that the applicant has a job and sufficient economic resources and health care
- o Documentation demonstrating adequate housing
- o Documentation proving family ties or legal and economic dependence

Temporary residence and work permit

This situation refers to foreign nationals over 16 years of age who are authorised to remain in Spain for more than ninety days but less than five years and to engage in employed labour.

Foreign nationals who obtain this type of permit should apply for the TIE within one month of registering under the relevant Social Security (Seguridad Social) regime.

The initial temporary residence and work permit will have a duration of one year and will be limited, except in certain cases, to a specific geographical area and occupation.

The foreign national must not be residing in Spanish territory illegally and must not have a criminal record, and the job must be real, subject to a temporary employment contract with a duration equal to the period for which the residence permit is valid and with a salary that is equal to at least the full-time Minimum Wage, regardless of whether the contract is for full-time or part-time employment.

The employer who hires a foreign national must have sufficient economic resources to meet the obligations of the employment contract throughout its term.

The residence and work permit may be renewed for a further two years, except in the case of a long-term residence permit, enabling the applicant to carry out any activity in any part of the national territory.

Temporary residence permit due to exceptional circumstances

A temporary residence permit may be granted to foreign nationals in Spain in cases of settlement, international protection, humanitarian reasons, collaboration with the public authorities or reasons of national security or public interest. It is also possible to apply for other temporary residence and work permits for foreign women who are victims of gender-based violence, due to collaboration against organised networks, or for foreigners who are victims of human trafficking.

The most common type of permit due to exceptional circumstances is for settlement, either work-related, social or family ties.

Foreign nationals may obtain a residence permit due to settlement on work-related grounds if they can prove they have been residing in Spain continuously for a minimum of two years, provided they do not

have a criminal record and can demonstrate an employment relationship lasting at least six months recognised by a judicial ruling or the employment authorities.

Foreign nationals may obtain a residence permit due to settlement on social grounds if they can prove they have been residing in Spain continuously for a minimum of three years, they do not have a criminal record and they have a signed employment contract that is valid at the time of application and they have family ties with other foreign residents or submit a settlement report attesting to their social integration, issued by the Autonomous Community or local authority in their habitual place of residence.

A residence permit may be obtained on the grounds of family ties in the case of the father or mother of a child with Spanish nationality, providing that the parent applying for residence has custody of the minors and lives with them or is up to date with their parental obligations, or in the case of children with a father or mother who had originally been Spanish. The granting of temporary residence permits due to exceptional circumstances of settlement will be associated with a work permit in Spain throughout the duration of residence.

In other situations, foreign nationals may apply for the corresponding work permit in person from the competent body.

Long-term Residence

A long-term residence permit is granted to foreign nationals who have been authorised to live and work in Spain indefinitely under the same conditions as Spanish nationals.

Foreigners are eligible for a long-term residence permit if they have resided in Spanish territory legally and continuously for five years or if they can prove that they have lived in the European Union continuously for that period as holders of an EU blue card, provided that they have lived in Spanish territory for the two years immediately preceding the application. There are also other cases, such as residents who were born in Spain and, on reaching 18 years of age, have been residing in Spain legally and continuously for at least three consecutive years immediately preceding the application; residents who are beneficiaries of a contributory retirement pension from Social Security; or beneficiaries of contributory benefits from the Social Security due to an absolute or major permanent disability.

Foreign nationals who have a long-term residence permit must apply for renewal of their Foreign National Identity Card (Tarjeta de Identificación de Extranjeros) every five years.

3. EU CITIZENS REGIME

The regime for EU citizens regulates how rights of entry, free movement, stay, residence, permanent residence and work in Spain are exercised by citizens of other EU Member States and the other States that are party to the Agreement on the European Economic Area, as well as certain family members, regardless of their nationality, when they accompany or are reunited with EU, EEA agreement or Swiss citizens.

EU citizens may stay for less than three months provided that they hold a valid passport or identity document issued by the authorities in their country.

If citizens of this type wish to stay for more than three months, they will be eligible for residence in Spain provided that they meet one or more of the following requirements:

- being employed or self-employed in Spain. This condition is deemed to be fulfilled if:
 - they have a temporary disability
 - they become involuntarily unemployed after having been employed for more than one year and are registered as a job seeker, and in certain cases this condition will also be deemed fulfilled after shorter periods of employment
- having sufficient resources for themselves and their family and having health insurance that covers them in Spain
- being enrolled at an official educational institution, having health insurance that covers them in Spain and having sufficient resources for themselves and their family during their stay, or
- being a family member who accompanies an EU citizen or is going to be reunited with them, provided that the EU citizen meets one or more of the aforementioned requirements. For this purpose, and regardless of their nationality, family of an EU citizen is considered to refer to:
 - Spouse, provided there has not been a marriage annulment, divorce or legal separation.
 - Civil partner, registered in an established public registry in a Member State of the European Union or in a State that is party to the Agreement on the European Economic Area, not allowing two simultaneous registrations in said State and provided that said registration has

not been cancelled.

- Direct descendants, or those of their spouse or civil partner, under 21 years of age, or those over that age who are living with them under their charge or have a disability.
- Direct ascendants, and those of their partner, living under their charge

EU citizens and their families must personally apply to the foreigners' office (oficina de extranjeros) of the province where they intend to reside (or the corresponding Police Station) to be registered in the Foreigners' Central Registry (Registro Central de Extranjeros). EU citizens will then be issued with a registration certificate including the name, nationality and address of the registered person, their foreigner's identification number (NIE), and the date of registration, with the corresponding EU citizen's family member residence card for their family members. It will be necessary to show the applicant's valid passport or national identity document and the documentation proving that the other requirements are met.

EU citizens will be eligible for residence for as long as they continue to fulfil the aforementioned conditions. Should there be any doubt as to whether they meet the requirements, the competent bodies may carry out the necessary checks. Long-term residents must report any changes to their circumstances in relation to their nationality, marital status, address, etc.

Once EU citizens or their family members have been legally residing in Spain for a continuous period of five years, they will be entitled to remain permanently and may apply to be issued with the relevant document (certificate or card) as proof of that right, although this permanent residence may be obtained in less than five years in certain cases, e.g. those who reach retirement age or are affected by a permanent disability while working in Spain.

Family members of employed or self-employed workers who live with them in Spain will be eligible for permanent residence in Spain, regardless of their nationality, once workers have acquired the right of residence for themselves, and the corresponding permanent EU citizen's family member residence card will be issued or renewed.

4. APPLICABLE LEGISLATION

Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration, amended by Organic Laws 8/2000, 11/2003 and 14/2003.

Royal Decree 240/2007, of 16 February, on entry, free movement and residence in Spain of citizens of Member States of the European Union and other States that are party to the Agreement on the European Economic Area.

Royal Decree 557/2011, of 20 April, which approves the Regulation of Organic Law 4/2000, on rights and freedoms of foreigners in Spain and their social integration, implementation of Organic Law 4/2000.

5. LINKS

Website of the Ministry of the Interior on the legal regime governing European residents:
<http://www.interior.gob.es/web/servicios-al-ciudadano/extranjeria/ciudadanos-de-la-union-europea/expedicion-y-vigencia-del-certificado-de-registro>

Website of the Ministry of Labour, Migration and Social Security regarding the regime governing EU nationals in Spain:
<http://extranjeros.empleo.gob.es/es/InformacionInteres/InformacionProcedimientos/CiudadanosComunitarios/hoja104/index.html>

Website of the Ministry of the Interior on the legal regime governing stay and residence of foreign citizens in Spain:
<http://www.interior.gob.es/web/servicios-al-ciudadano/extranjeria/ciudadanos-de-la-union-europea/estancia-y-residencia>

Website of the Foreigners' Office belonging to the Government Sub-delegation in Alicante with specific information on the regime governing EU citizens:
<http://www.consultor.com/oue/regcomun.html>

EUROPEAN UNION MEMBER STATES

*Germany
Austria
Belgium
Bulgaria
Cyprus
Croatia
Denmark*

*Slovakia
Slovenia
Spain
Estonia
Finland
France
Greece*

*Hungary
Ireland
Italy
Latvia
Lithuania
Luxembourg
Malta*

*Netherlands
Poland
Portugal
United Kingdom
Czech Republic
Romania
Sweden*

STATES THAT ARE PARTY TO THE AGREEMENT ON THE EUROPEAN ECONOMIC AREA

Iceland

Norway

Liechtenstein

AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION

Switzerland

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