

GUIDE FOR

EUROPEAN CITIZENS

LEGAL REGULATIONS
FOR CITIZENS FROM THE
EUROPEAN UNION, FROM
MEMBER STATES IN THE
EUROPEAN ECONOMIC AREA
AND FROM SWITZERLAND



DIPUTACIÓN
DE ALICANTE

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1. INTRODUCTION

Since it became part of the European Union in 1986, Spain has put in place the administrative formalities to enable citizens of the Member States to exercise their right to enter, leave and remain in Spain.

As a consequence of Directive 2004/38/CE from the European Parliament and the Council, of 29 April 2004, in relation to the right of Citizens of the Union and of members of their family to freely circulate and reside in the territory of Member States, on 16 February 2007, Royal Decree (hereinafter RD) 240/2007 was approved on the entry, free movement and residence in Spain of citizens from European Union Member States, from other States belonging to the European Economic Area (EEA) and Switzerland.

This RD repealed the previous RD 178/2003, of 14 February, on the right to enter and remain in Spain of citizens from European Union Member States and from other States belonging to the European Economic Area, as well as all regulations of equal or lesser standing that contradict it.

Royal Decree 240/2007 regulates entry and exit, free movement, stay and residence, long-term residence and work in Spain, normal arrangements for the procedures for application, processing, issue and renewal of registration certificates and residence cards, as well as limitations on rights for reasons of public order, safety and public health.

The aforementioned Royal Decree is addressed to nationals of European Union Member States (**Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom**); to nationals of States belonging to the European Economic Area (**Iceland, Liechtenstein and Norway**) and to nationals of **Switzerland** under the Agreement of 21 June 1999 between the European Community and the Swiss Confederation on the movement of people.

LEGAL REGULATIONS FOR CITIZENS FROM THE EUROPEAN UNION, FROM MEMBER STATES IN THE EUROPEAN ECONOMIC AREA AND FROM SWITZERLAND

It also applies, no matter their nationality, **to relatives of a citizen** of the European Union or from another State belonging to the European Economic Area, when they accompany him or her or reunite with him or her.

For more information on the relatives to whom the RD applies, please read the booklet on “Legal Regulations applicable to non-EU relatives of European Union citizens” available on the website: www.ciudadanosextranjeros.es

The Royal Decree recognises the right to freely enter, exit, circulate and reside in Spanish territory, having previously complied with the formalities established by the country and notwithstanding the limitations set out therein. Likewise, it recognises the right to access any activity, on behalf of a third party or for oneself, provide services and undertake studies under the same conditions as Spanish citizens.



All European Union citizens living in Spain will be treated as equals to Spanish citizens. This right will extend its effects to family members who do not hold the nationality of a European Union Member State or of a State belonging to the European Economic Area, who are beneficiaries of the right to residence or the right to long-term residence.

Lastly, by virtue of Royal Decree 1161/2009, of 10 July, Royal Decree 240/2007 is modified to the effect that possession of a valid and current European Union family residence card, issued by another State belonging to the European Economic Area, will exempt these family members from the obligation to obtain an entry visa and, on presentation of this card, no entry or exit stamp will be required in their passport.

2. ENTERING AND LEAVING SPAIN



ENTERING

Any European Union citizen wanting to enter Spain must have a valid and current passport or identity document stating the holder's nationality.

In the event that the European Union citizen does not have the documents required for entering Spain, RD 240/2007 states that, before turning them away, the authorities responsible for border control will give such people as much help as possible to obtain and receive their ID documents within a reasonable period or to confirm or prove by other means that they are beneficiaries of this regime, provided that the absence of the travel document is only reason preventing them from entering Spanish territory.



LEAVING

Citizens of a European Union Member State or of another State belonging to the European Economic Area or of Switzerland, and members of their family, whatever their nationality, will have the right to leave Spain to travel to another Member State country, notwithstanding the requirement for them to show a valid passport or identity document for border control officials to check if they are leaving via a manned checkpoint, and provided they are not legally prevented from doing so for reasons of national security or public health or any other circumstances set out in the Penal Code.



3. STAY

If the period of stay in Spain of a citizen of a European Union Member State, of another State belonging to the EEA or Switzerland, for whatever purpose, is less than three months, being in possession of a valid passport or identity document will be sufficient, and the period of stay will not be counted for the effects arising from the situation of residence.

Citizens who intend to remain or become resident in Spain for more than three months will be required to apply for a European Union citizen registration certificate.



ESPAÑA

CERTIFICADO DE REGISTRO DE CIUDADANO DE LA UNIÓN

El encargado del Registro Central de Extranjeros certifica que:

D./Dª.:

Fecha y lugar nac.:

Hijo/a de:

NIE:

Domicilio:

Nacionalidad:

Residente comunitario permanente en España desde





4. ADMINISTRATIVE SITUATIONS

4.1. RESIDENCE

Citizens of a European Union Member State, of another State belonging to the EEA or of Switzerland who are planning to reside in Spain for a period of more than three months are required to seek registration on the Central Register of Foreign Nationals, which will issue them with a Certificate of Registration.

HOW DOES SOMEONE OBTAIN RESIDENCE?




One or more of the following circumstances must be proved:

-  Working for an employer in Spain.
-  Self-employed in Spain.
-  Having sufficient resources for themselves and their family members during the period of residence. Providing proof of public or private health insurance, contracted in Spain or in another country, giving cover during the period of residence. Assessing whether someone has sufficient financial resources will be done on an individual basis. Sufficient proof will be understood as having resources higher than the amount set each year by the General Budgets Law in order to have the right to receive a non-contributory allowance.
-  Being a student who is enrolled in a public or private education institution that is recognised or funded by the education administration for running courses or professional training, plus having public or private medical insurance contracted in Spain or in another country giving cover and a responsible statement of having sufficient resources for themselves and their family members, in order not to become a burden on the Spanish social care system during their period of residence.

The application for residence must be made in person by the citizen of the European Union, of another State belonging to the EEA or of Switzerland at the appropriate Police Station. The corresponding fee must be paid before the registration certificate can be issued.



DOCUMENTATION TO BE PROVIDED

-  **Official application form (EX 18)** in duplicate (go to our website www.ciudadanosextranjeros.es to obtain the form).
-  **Valid and current passport or national identity document** If this has expired, copies of the expired passport/identity document plus the renewal application form must be provided.
-  No document is required if the application is for long-term residency after having lived in Spain for a continuous period of five years. If this is not the case, the following documentation must be provided:

a) Anyone working for an employer may provide one or more of the following documents:

- Contracting statement issued by the employer or employment certificate, including at least the company name and address, tax ID reference and social security account code.
- Employment contract or notification of the intention to contract and conditions.
- Document of affiliation or similar condition in the corresponding Social Security regime or consent for details to be checked in the records held by the Social Security General Treasury.

b) Anyone who is self-employed may provide one or more of the following documents::

- Registration in the Economic Activities Census.
- Justification of registration of their premises in the Commercial Register.
- Document of affiliation or similar condition in the corresponding Social Security regime or consent for details to be checked in the records held by the Social Security General Treasury or by the Tax Agency.

c) Anyone not working in Spain must provide:

- Documentation providing proof of public or private health insurance, contracted in Spain or in another country, provided it gives cover during the period of residence that is equivalent to the cover provided by the national health system. Pensioners comply with this requirement by producing proof that they have healthcare cover provided by the State where they draw their pension.
- Documentation proving that they have sufficient income for themselves and their family members while they are resident in Spain. This can be proved by any other means admissible by law, including property title deeds, certified cheques, documentation justifying capital income obtained or credit cards with bank certification proving the credit amount available on each card.

d) Students must provide the following:

- Proof of enrolment in a state or private education institution that is either recognised or funded by the appropriate education authority.
- Documentation proving they have public or private health insurance. They may show the European Health Insurance Card (EHIC) valid for the period of residence and enabling them to receive the necessary healthcare from a medical point of view, taking into account the nature of the services and the expected duration.
- Statement of having sufficient resources for themselves and their family members during the period of residence in Spain.

To comply with these requirements, it will be sufficient to present documentation proving participation in a European Union programme that supports educational exchanges for students and teaching staff.

4.2. LONG-TERM RESIDENCY

WHAT IS THE LONG-TERM EUROPEAN UNION CITIZEN'S RESIDENCE CERTIFICATE?

This certificate is issued to citizens of the European Union or from another State belonging to the European Economic Area or Switzerland who live in Spain and can prove one of the following circumstances:

- a) Having lived legally in Spain for a continuous period of five years.
- b) Being employed or self-employed and ceasing work due to having reached the age set by Spanish legislation for retirement with the right to a pension.
- c) Being employed and taking early retirement after having worked in Spain for at least the previous twelve months and having lived in Spain for more than three years. The three-year residence period is not required if the European Union citizen is married or the registered partner of a Spanish citizen, or is a citizen who has lost their Spanish nationality after marriage to or inscription as the registered partner of the worker.
- d) Being self-employed or employed and having ceased work as a result of permanent disability, having lived in Spain continuously for more than two years. The two-year period is not required if:
 - The disability is a result of a work-related accident or occupational disease that gives them the right to a pension that is the full or partial responsibility of a Spanish State organisation.
 - The European Union citizen is married to or is the registered partner of a Spanish citizen, or of a citizen who has lost their Spanish nationality after marrying or becoming the registered partner of the person employed.
- e) Being self-employed or employed and after three consecutive years working and living continuously in Spain, they are now

working in another Member State, returning to Spanish territory every day or at least once a week.

Employment will take into account periods of involuntary unemployment duly justified by the public employment service, periods of suspension of activity for reasons beyond the employee's control, as well as absences from the workplace or sick leave due to illness or accident.




HOW IS IT OBTAINED?

The application must be made in person by the citizen of the European Union, of another State belonging to the EEA or of Switzerland at the appropriate Police Station.

Before being issued with the long-term residency certificate stating their name, nationality, address, foreign national identify number, date of registration and the permanent nature of the residency, the applicant must pay the corresponding fee.



DOCUMENTATION REQUIRED

-  **Official application form (EX 18)** in duplicate (go to our website www.ciudadanosextranjeros.es to obtain the form).
-  **Valid and current passport or national identity document.** If this has expired, copies of the expired passport/identity document plus the renewal application form must be provided.
-  **Documentation proving the circumstances under which long-term** residency is being requested. No document is required if the application is for long-term residency after having lived legally in Spain for a continuous period of five years, as this circumstance will be officially verified by the Foreign Nationals' Office.



5. RECOMMENDED READING

CARRASCOSA GONZÁLEZ, Javier, DURÁN AYAGO, Antonia and CARRILLO CARRILLO, Beatriz L., Curso de Nacionalidad y Extranjería, Colex, Madrid, 2007.

DURÁN AYAGO, Antonia and CARRILLO CARRILLO, Beatriz L., Guía legal práctica de extranjería, Comares, Granada, 2006.

FUENTES I GASÓ, J. R., GIFREU I FONT, J., & TORRES ESTRADA, R., Tomo XVIII Esquemas de Extranjería, Tirant lo blanch, Valencia, 2009.

MARTÍN MARTÍN, Jaime, “Nueva ordenación de los ciudadanos comunitarios en España: el RD 240/2007 de 16 de febrero”, in *Economist & Jurist*, no. 112, Barcelona, Grupo Difusión, Julio-Agosto 2007, pp. 52-62.

MASANET FERNÁNDEZ, Juan Manuel (Coord.), ORTEGA GIMÉNEZ, Alfonso et al, Manual práctico orientativo de extranjería. Aspectos jurídicos y sociales del fenómeno de la inmigración en España, Grupo Difusión, Barcelona, 2007.

ORTEGA GIMÉNEZ, Alfonso (Coord.) et al, Formularios de nacionalidad y extranjería, Difusión Jurídica y Temas de Actualidad, Barcelona, 2008.

ORTEGA GIMÉNEZ, Alfonso y LÓPEZ ÁLVAREZ, Antonio, “El régimen jurídico de entrada, libre circulación y residencia en España de ciudadanos comunitarios”, in *Diario LA LEY*, Año XXIX, Número 6978, Lunes, 30 de junio de 2008, La Ley, Madrid, pp. 01-09.

VV. AA., Revista del Ministerio de Trabajo e Inmigración, monographic on Derecho Social Internacional y Comunitario, nº 92, Ministerio de Trabajo e Inmigración, Madrid, 2011.



6. USEFUL WEBSITES

www.consultor.com/oue

Excmo. Colegio Oficial de Graduados Sociales de Alicante – One-stop Foreign Nationals' Office [Oficina Única de Extranjeros] in Alicante.

www.consultorga.com

Foreign Nationals' Office [Oficina de Extranjería] in Alicante

www.migrarconderechos.es

Migrar con Derechos

www.mitramiss.gob.es

[Ministerio de Trabajo e Inmigración] Ministry of Employment, Migrations and Social Security [Ministerio de Trabajo, Migraciones y Seguridad Social]



7. APPLICABLE SPANISH LEGISLATION

ROYAL DECREE 240/2007,

of 16 February, on the entry, free movement and residence in Spain of citizens from European Union Member States and from other States belonging to the European Economic Area Agreement. (BOE 23-07-2009)

ORDER PRE/1490/2012, of 9 July

enacting rules for the application of article 7 of Royal Decree 240/2007, of 16 February, on the entry, free movement and residence in Spain of citizens from European Union Member States and from other States belonging to the European Economic Area Agreement.



8. MORE INFORMATION

FOREIGN NATIONALS' OFFICE IN ALICANTE

<http://www.consultor.com/oue/>

FOREIGN NATIONALS' OFFICE IN ALTEA

<http://www.consultorga.com/section.asp?sec=176>

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THE POLICIA NACIONAL STATION

in the province where you live

<http://www.policia.es>



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