

**RESIDENCE AND WORK WITHWITHIN THE FRAMEWORK OF TRANSNATIONAL
PROVISION OF SERVICE BY COMPANIES ESTABLISHED IN A COUNTRY NOT
BELONGING TO THE EUROPEAN UNION NOR TO THE EUROEAN ECONOMIC AREA**

APPLICABLE REGULATIONS

1. *Organic Law 4/2000 of 11 January on the Rights and Freedom of Foreigners in Spain and their Social Integration (article 43.2).*
2. *Regulation of the Organic Law 4/2000, approved by Royal Decree 557/2011 of 20 April (articles 110 through 116).*

DEFINITION (Article 110 of the Regulation of the Organic Law 4/2000)

“1. A foreign worker who moves to a work center in Spain and depends, through an express employment relationship, on a company established in a State not belonging to the European Union or the European Economic Area, is in a situation of temporary residence and work withwithin the framework of a transnational provision, in the following cases

- a) When the said temporary displacing occurs on behalf and under the direction of the foreign company in execution of a contract concluded between it and the recipient of the provision of services that is established or that carries out its activity in Spain, as set forth in the 4th additional provision of the Law 45/1999, of November 29, on the displacing of workers withwithin the framework of transnational provision of services.*
 - b) When the said temporary displacing occurs to work centers in Spain of the same company or another company in the same group of the sending Company.*
 - c) When the said temporary displacing is with regard to highly qualified workers and with the purpose of providing supervision or recommendation of works or services that the company based in Spain isgoing to carry out abroad.*
- 2. Displacement with the purpose of training activities in the cases provided for in paragraphs a) and c) of the previous section and of navigating personnel with respect to merchant marine companies are expressly excluded from this type of authorization.*
- 3. This residence and work authorization will be limited to a specific occupation and territorial area. Its duration will coincide with the time of the worker's displacing with a limit of one year.”*

The processing of this type of visa takes place in two phases. In a first phase, the employer wishing to post the worker to Spain must present the application for authorization of residence and work within the framework of transnational provision of services at the corresponding Foreigners' Office in Spain. Alternatively, this employer can also choose to present the application for authorization of residence and work within the framework of transnational provision of services at the Consular Office. The decision to grant this type of authorization corresponds to the competent Government Delegation or Sub-delegation.

Once the permit has been issued and the interested party has been notified, he/she must submit at the Consular Office his/her application for a visa of authorization of residence and work within the framework of transnational provision of services

PHASE 1 - APPLICATION FOR A PERMIT OF TEMPORARY RESIDENCE AND TRANSNATIONAL PROVISION OF SERVICES AT THE SPANISH EMBASSY IN HANOI

A. REQUIRED DOCUMENTS:

1. **Application form for a permit of temporary residence and work within the transnational provision of services in the official model (EX-08)**, in duplicate, duly completed and signed by the foreigner. This form can be obtained at https://www.inclusion.gob.es/documents/410169/2156496/08-Formulario_transnacionales.pdf/3e962a3a-79df-3ec1-8ffe-9d734c5de8ca?t=1706870197433
2. **Proof of payment of the fee for requesting temporary residence permit:** using the form **790 code 052:**
<https://sede.administracionespublicas.gob.es/pagina/index/directorio/tasa052>
3. **Proof of payment of the fee for requesting work permit: form 790 code 062**
<https://sede.administracionespublicas.gob.es/pagina/index/directorio/tasa062/>.
4. **Depending on the case of the transfer:**
 - a. Copy of the contract for the provision of services or
 - b. Deed or public document proving that the companies belong to the same group.
5. **Documents regarding the worker:**
 - a. Valid passport, with a minimum validity as of the duration of the stay and at least two blank pages (original + photocopy of all the pages containing information)
 - b. Copy of the documents proving the training and, where applicable, the professional qualification legally required for the exercise of the profession.
6. **Documents regarding the company displacing the worker to Spain:**
 - a. Documents which identify the Company displacing the worker to Spain and its tax domicile.
 - b. Public document proving that the person signing the application for authorization of temporary residence and work within the framework of transnational provision of services has the legal representation of the said Company, as well has his/her identity document.
 - c. Documents proving that:
 - The residence of the foreign worker in the country where the Company displacing him/her is stable and regular.
 - The professional activity of the foreign worker in the country where the Company displacing him/her is regular.
 - d. Work contract of the foreign worker with the company displacing him/her.
 - e. Report of the activities that the worker will carry out in the context of his/her displacement.
 - f. **Secondment certificate from the competent authority or institution of the country of origin** certifying that the worker continues to be subject to its Social Security legislation if there is an applicable international Social Security instrument or a public document on the appointment of the legal representative of the company that displaces the worker, for the purpose of compliance with Social Security obligations.

7. Documents regarding the company receiving the provision of services:

- a. Documents which identify the Company:
 - In the case of the employer being a physical person: copy of the Tax Identification Number (NIF) or Foreigner's Identification Number (NIE) or consent to verify the identity data through the System of Identity and Residence Data Verification.
 - In the case of the employer being a legal Company (S.A., S.L., Cooperativa, etc.): copy of the Tax Identification Number (NIF) and copy of the public deed on the establishment of the Company, duly registered at the corresponding Registration Office.
- b. Where appropriate, certificate from the competent Public Employment Service on the insufficiency of jobseekers to fill the job.
- c. Documents that justify the concurrence, if they are alleged by the applicant, of one or more of the specific cases of non-consideration of the national employment situation established in Article 40 of Organic Law 4/2000 or by international agreement.

B. PROCEDURE FOR PHASE I:

LEGITIMATE SUBJECT: Applicants must personally lodge their visa applications. Applications for children under 18 shall be lodged by their legal representatives.

PLACE OF PRESENTATION OF APPLICATION: at the premises of the Embassy of Spain in Hanoi (4 Le Hong Phong, Ba Dinh, Hanoi)

APPOINTMENT SYSTEM: Applicants must write an email to the following address to book for an appointment: emb.hanoi.vis@maec.es

APPLICATION RECEIPT: The Spanish Embassy will give the applicant a receipt of Form EX07 and of the Form 790-052 or 790-062 (if applicable) and will transmit the application for residence permit to the corresponding Foreigners' Office. This Office has a deadline of 3 months to reach a decision, starting from the date of reception of the dossier of application for residence permit.

NOTIFICATION: The Embassy of Spain will notify the applicant on the decision of the corresponding provincial Government's Office:

- If the decision is favorable, the applicant will then be invited to come to the Embassy to lodge his/her visa application (see Phase II)
- If the decision is unfavorable, the applicant can file an application for reconsideration of the residence permit before the Spanish Embassy within one month from the date of receipt of the notice from the Spanish Embassy. The applicant may also file an appeal before the High Court of Madrid within two months from the date of receipt of the notice of the refusal of the residence permit or of the dismissal of the application for reconsideration

PHOTOCOPIES. It is recalled that a photocopy of each original document will be presented. The photocopies will be made after the translations have been certified and/or the documents legalized.

LEGALIZATION AND TRANSLATION. Any public document issued by non-Spanish authorities must be previously legalized. Documents written in a language other than Spanish must be accompanied by their translation into this language, carried out by a notary or office whose translations are admitted by official bodies, which must be presented just in front of the copy of the original.

PHASE 2 – VISA APPLICATION (if the requested permit is granted)

VISA CODES:

- TPS: over 180 days
- TPC: up to 180 days

REQUIRED DOCUMENTS:

1. National visa application form, attached with a passport-type photo
2. **Passport** valid for at least 4 months.
3. **If the applicant is not a Vietnamese citizen**, he/she must provide documentation proving his/her residence in Vietnam (i.e. temporary or permanent residence card)
4. **Permit of temporary residence and work within the transnational provision of services**
5. **Medical certificate**, in which it is specified literally that the interested party does not suffer from any of the diseases that may have serious public health repercussions in accordance with the provisions of the International Health Regulations of 2005. Certificates that do not contain said literal mention will not be admitted ;
6. **Applicants over 18 years of age** must present a criminal record certificate issued by the authorities of the country in which they have resided during the last 5 years, in which there must be no convictions for crimes provided for in Spanish law. In the case of having resided in several countries, it is necessary to present the corresponding certificates issued by each of them. **For the purposes of determining the countries whose criminal record certificates must be presented, a declaration on the countries of residence of the visa applicant for the last 5 years must be provided.**
7. Visa fee

B. PROCEDURE FOR PHASE II:

LEGITIMATE SUBJECT: Applicants must personally lodge their visa applications. Applications for children under 18 shall be lodged by their legal representatives.

PLACE OF PRESENTATION OF APPLICATION: **exclusively** at one of BLS's Visa Application Centers:

- BLS Visa Application Center in Hanoi: 13th floor, Hoa Binh Office Towers 106 Hoang Quoc Viet, Cau Giay, Hanoi, Tel: +84 (0) 24 321 917 55, Email: info.han@blshelpline.com, website: <https://vietnam.blsspainvisa.com>

- BLS Visa Application Center in Ho Chi Minh City: Room 64 RA7, 1st floor, Viet Phone Building, 64 Vo Thi Sau, Tan Dinh Ward, District 1, Ho Chi Minh City, Tel: +84 (0) 28 353 571 02, Email: info.hcmc@blshelpline.com, website: <https://vietnam.blsspainvisa.com>

APPOINTMENT SYSTEM: Applicants must **book for an appointment** via the appointment system of BLS International Co. Ltd (<https://vietnam.blsspainvisa.com/vietnamise/index.php>)

APPLICATION RECEIPT: The applicant will be given a receipt of the application with a code allowing verification of the processing status of the application through the following link: <https://sutramiteconsular.maec.es/Home.aspx>

REQUIREMENT OF ADDITIONAL DOCUMENTS AND/OR INTERVIEW. At any time during the processing of the file, this Embassy may require the presentation of additional documents to those already presented and/or the personal appearance of the applicant for an interview if deemed necessary.

TIME FOR VISA APPLICATION PROCESSING AND RESOLUTION: The legal period for reaching a decision is of one month as of the day after the application submission date, but this period may be extended if an interview or additional documents are requested.

COLLECTION OF PASSPORTS AND DOCUMENTS: Applicants must directly receive visa results (except for minors), within a maximum of one month from the date of receiving the notification of visa results.

REFUSAL OF THE RESIDENCE AUTHORIZATION OR VISA: Where appropriate, the refusal of the residence authorization or visa will always be notified in writing, stating the reasons on which the decision is based.

APPLICATION FOR RECONSIDERATION / APPEAL: In the event of a refusal to grant a visa, the applicant can file an application for reconsideration before the Spanish Embassy within one month from the date of receipt of the notice from the Spanish Embassy. The applicant may also file an appeal before the High Court of Madrid within two months from the date of receipt of the notice of the refusal of the visa or of the dismissal of the application for reconsideration.

VALIDITY OF THE VISA: The visa will be valid for 90 days. Once in Spain, workers must register with the Social Security system within a period of 3 months and before beginning their employment activity. They must also apply for a Foreigner Identity Card at the Foreign Nationals' Office or the corresponding Police Station within a period of 1 month from their registration with the Social Security system.

PHOTOCOPIES. It is recalled that a photocopy of each original document will be presented. The photocopies will be made after the translations have been certified and/or the documents legalized.

LEGALIZATION AND TRANSLATION. Any public document issued by non-Spanish authorities must be previously legalized. Documents written in a language other than Spanish must be accompanied by their translation into this language, carried out by a notary or office whose translations are admitted by official bodies, which must be presented just in front of the copy of the original.