

THE CORPORATE
IMMIGRATION
REVIEW

ELEVENTH EDITION

Editor
Chris Magrath

THE LAWREVIEWS

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PREFACE

Last year, as the 10th edition of *The Corporate Immigration Review* was being finalised for print, and the Preface was being drafted (late as usual), the world had just been hurled into a health crisis of a kind that few immigration practitioners could have imagined, let alone experienced. We wrote then about the extraordinary impact the crisis was having on the global economy. Putting to one side the niche interests of the readers of this publication about global mobility and cross-border travel, we reflected:

Hopefully by the time this edition hits your desks the storm will have passed and the business world will be in “bounce-back” territory, people will be moving around the world again for pleasure, business and economic development, the horrors of the first half of the year will have been replaced by optimism and relief. We hope so.

Sadly, one year later, most of the world is still in lockdown and nation states continue to grapple with the challenges of a virus that has taken nearly 3 million lives globally (as at April 2021). The measures that governments have been forced to impose to prevent transmission have had a devastating effect on economies and the world has experienced a sudden recession of a kind not seen in peacetime. The development and distribution of vaccines may represent a roadmap out of the crisis, but the world has a long way to go before normality returns.

In this context, immigration law developments have mostly consisted of exceptional and unprecedented measures designed to control the transmission of the virus. In ordinary times, the imposition of travel bans from the European Union to the United States would be unthinkable. Constraints on the freedom of movement of EU citizens between Member States (a pillar of the single market) would be impossible for EU leaders to contemplate. And yet, the past year has witnessed both of these hitherto unimaginable developments.

For immigration practitioners the challenges of the past year have been myriad, first in relation to managing law practices within the context of a sudden shift to home working and, more importantly, in helping clients deal with the complexities of a world in administrative lockdown. Normal business and work patterns were altered immeasurably over the space of a few days in March 2020, and proved the biggest challenges for all of us related to the administration of the global immigration system, with consulates closed, flight schedules abandoned and whole countries placed in administrative lockdown. Cases that in the past may have been straightforward and transactional became very difficult to manage from a logistics perspective. It has been a year of crisis management rather than strategic development.

It is difficult to gauge the extent to which the coronavirus pandemic will have a long-term impact on global mobility programmes and the corporate culture of international assignments. The pandemic is unlikely to reverse the globalisation that has developed over

the course of the past 20 years or more. Workers and entrepreneurs will still want to travel to, learn from and gain experience of other cultures and develop their business interests overseas. It is not possible to replicate an assignment experience on Zoom or Teams. Moreover, we cannot simply unpick the international web of businesses under common ownership that are such a feature of modern commerce. Global mobility will return, eventually, but with a modern template reflecting the flexibilities and alternative work patterns that have evolved at pace as a result of the crisis. 2020 saw a revolution in work practices, by necessity rather than design, that cannot now be reversed. However, it will always be within the spirit of human endeavour, especially within the context of business, to travel and engage in person on the ground in investment destinations.

Of course, the covid pandemic has not been the only event that practitioners have had to navigate this year. The UK, for example, finally reached the end of its long Brexit drama. A new settlement for the movement of people across UK–EU borders came into force on 1 January 2021.

Companies across Europe had to prepare for major regulatory and compliance changes at the same time as dealing with the effect of the pandemic. Most corporates are familiar with the challenges of compliance risk and employer sponsorship, but many were not ready for the scale of engagement that the new legal order imposes. The resident labour market, and the available pool of settled workers in the UK, shrank significantly at the beginning of 2021. This poses challenges for recruiters, human resources managers and global mobility specialists. We are all used to legal right to work (LRTW) checking requirements but not necessarily sponsor management recordkeeping and reporting on such a large scale. Bringing a block the size of the EU within the ambit of a new LRTW order represents a seismic change.

The new skilled worker route brings a lot of positives for business. Even though the underpinning narrative of Brexit was about ‘taking back control’ and reducing migration numbers from outside the new resident labour market (limited to the common travel area of the UK, Ireland and the surrounding islands), the scheme is in fact very liberal. The skills threshold (RQF3) is lower and the salary threshold is flexible given the ability to ‘trade’ points with other eligibility criteria. The fact that there are no caps or quotas of restricted certificates of sponsorship is a bonus. The policy is a major shift away from the approach of the May years. The ironic consequence of the policy may be a significant increase in the UK’s annual net migration figures despite the political rhetoric that has existed over the past decade.

One trend that has accelerated as a result of the exceptional events of 2020 is that of remote working. The evolution of employment policy in respect of flexible working practices has moved at pace. Some governments have been agile in response, altering domestic immigration laws to reflect these developments. Estonia was the first EU country to announce an initiative in this area called the digital nomad visa. This visa allows remote workers to live and work in Estonia for up to a year. Recipients are permitted to live in the country and legally work for their employer or their own company registered abroad. Remote workers have long faced ambiguity when they travel, often crossing the line between legitimate visitor activities and acts that require work authorisation or a residence permit, or both. The Estonian scheme breaks the mould in terms of the traditional approach of governments to international workers, which has until now required an economic link to the host country. Eligibility requirements include the ability to work independently of location and to perform duties remotely using telecommunications technology. The applicant must

have an active employment contract with a company registered outside of Estonia, conduct business through his or her own company registered abroad, or work as a freelancer for clients mostly outside of Estonia.

The United Arab Emirates (UAE) has recently initiated an emirates-wide remote working programme in a bid to attract the growing pool of digital nomads. The visa is being marketed as an opportunity for remote workers to take advantage of the country's low taxes – the UAE does not impose income tax on residents. The quality of life, standard of hospitality on offer and all-year summer weather combine to make the country a desirable destination for flexible workers, particularly those without family commitments that might impede a move abroad.

As ever, there is a great deal for our contributors to write about this year. We are again very grateful to our colleagues for their brilliant submissions to this year's text.

Ben Sheldrick

Magrath Sheldrick LLP

London

April 2021

SPAIN

*Antonio Arenas López and Beatriz Leiva Baeza*¹

I INTRODUCTION TO THE IMMIGRATION FRAMEWORK

Spain was once predominantly viewed as a country of emigrants and thus focused on the regulation of nationals leaving the country, while immigration legislation remained fragmentary. This trend reversed over the 20th century, as Spain saw more immigration than emigration and, since the turn of the century, four immigration laws have been introduced and the regulatory framework has changed.

On 11 January 2000, Organic Law 4/2000 on the Rights and Freedoms of Foreign Nationals in Spain and their Social Integration (Organic Law 4/2000) was introduced, expanding the rights of immigrants and establishing a general principle of equality with Spanish citizens. This was a significant change to the law. Accordingly, non-European citizens must have a work and residence visa to reside and work in Spain. The following are the main types of visa provided under Article 25 bis of Organic Law 4/2000 and its implementing regulations, adopted by Royal Decree 557/2011:²

- a* transit visa, which enables transit through the international transit area of a Spanish airport or through Spanish territory;
- b* short-stay visa, for an uninterrupted stay or successive stays for a period or sum of periods not exceeding three months per term from the first date of entry;
- c* residence visa, which enables residence only, with no exercise of work or professional activities;
- d* residence and work visa, which enables working residence for up to a maximum of three months;
- e* residence and seasonal work visa, which enables working residence for an employee for up to nine months in a period of 12 consecutive months;
- f* study visa, which enables residence for study, research or training purposes, student exchanges, non-work placements or volunteer services with no remuneration for work; and
- g* research visa, which enables residence while carrying out research projects within the framework of a hosting agreement signed with a research organisation.

1 Antonio Arenas López is a managing partner and Beatriz Leiva Baeza is an associate at Scornik Gerstein LLP.

2 Royal Decree 557/2011 of 20 April 2011 on the Implementing Regulations of Organic Law 4/2000.

After 1 January 2021 and the end of the Brexit transition period, British citizens are considered third-country citizens,³ and, without prejudice to the application of a special future mobility regime, they will be subject to the provisions of the general regime applied to aforementioned third-country nationals.

On the other hand, for nationals of EU Member States and associate countries of the Schengen Agreement, Regulation (EC) No. 810/2009⁴ along with the amendments introduced by Regulation (EU) 2019/1155,⁵ which regulates the Schengen visa scheme, enables entry into, exit from and free movement within the Schengen Area from any of the Schengen Area Member States.

In addition, Law 14/2013 of 27 September 2013 on Supporting Entrepreneurs and Their Internationalisation (Law 14/2013) introduced new types of visa, including residence visas for the following:

- a* capital investors;
- b* acquisitions of real estate;
- c* entrepreneurs and business activity;
- d* highly qualified professionals;
- e* training or research purposes;
- f* business transfers; and
- g* family members.

i Legislation and policy

The Spanish legal system follows a hierarchical order in which any inferior law cannot contradict a superior law. The Spanish Constitution is the highest law, followed by international treaties (including European law); state laws, which can be organic or ordinary depending on the significance of the matter (a qualified majority is required to adopt the law); royal decree-laws; royal legislative decrees; government regulations; autonomous community laws; and community regulations.

According to Article 149.1.2 of the Constitution, immigration matters are reserved to the central government and therefore governed only by state laws. A non-exhaustive list of the main laws governing immigration includes the following:

- a* Agreement on Accession of the Kingdom of Spain to the Convention implementing the Schengen Agreement;
- b* Organic Law 4/2000;
- c* Organic Law 1/1992 of 21 February 1992 on the Protection of Public Safety;
- d* Law 14/2013;
- e* Royal Decree 557/2011;
- f* Royal Decree 240/2007 of 16 February 2007 on the Entry, Free Movement and Residence in Spain of Citizens of EU Member States and Other States Parties to the Agreement on the European Economic Area (EEA);

3 Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01.

4 Regulation (EC) No. 810/2009 of the European Parliament and the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

5 Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code).

- g* Royal Decree 1325/2003 of 24 October 2003 on the Regulation of Temporary Protections in the Event of Mass Influxes of Displaced Persons;
- b* PRE/1490/2012 Order of 9 July 2012 on Rules for the Application of Article 7 of Royal Decree 240/2007;
- i* INT/3321/2011 Order of 21 November 2011 on Issuance of Travel Documents to Foreign Nationals;
- j* PRE/1803/2011 Order of 3 June 2011 on Fees for Processing Administrative Permits, Visa Applications and Immigration Identity Documents;
- k* PRE/1282/2007 Order of 10 May 2007 on the financial resources that foreign nationals must prove are available to them to be able to enter Spain;
- l* PRE/237/2002 Order of 8 February 2002 on General Instructions on Visa Application Reference Numbers;
- m* Order of the Minister of the Interior of 7 February 1997 on Foreign Identity Cards; and
- n* Resolution of 26 January 2012 by the Undersecretary of the Ministry of the Presidency, publishing the Agreement between the Ministry of Foreign Affairs and Co-operation and the Ministry of the Interior on the issue of visas at points of entry and the extension of visas in Spain.

ii The immigration authorities

There are three levels of government in Spain: central, regional (at the level of the autonomous communities) and local (at the level of the provinces and municipalities).

Responsibility for immigration under the central government falls to the Ministry of the Interior. Royal Decree 400/2012 of 17 February restructured the Ministry of the Interior into the Secretariat of State for Security and the Undersecretariat of the Interior, which are in turn structured as general directorates and secretariats.

The Secretariat of State for Security is responsible for directing and organising international police cooperation, including the Schengen Information System. One of the Secretariat's directorates is the Directorate General for International Relations and Immigration. The Secretariat also coordinates the implementation of EU directives and regulations, with implementation of some aspects of immigration law carried out at a lower administrative level.

The Ministry of the Interior, through the police authorities, enforces immigration legislation (Royal Decree 400/2012 of 17 February). The Directorate General of Police is responsible to the Secretariat of State for Security and has the duty to direct, organise and enforce immigration regulations.

The General Commissariat for Customs and Immigration has responsibility for:

- a* controlling the entry into and exit from the Spanish territory of Spanish and foreign citizens;
- b* preventing, prosecuting and investigating illegal immigration cartels; and
- c* generally overseeing the immigration police regime, refugee and asylum and immigration matters.

The Directorate General of the Civil Guard collaborates with the Ministry of Employment and Social Security through the General Secretariat for Immigration and Emigration.⁶

In 2007, the Council of Ministers set up a new institution, the Unit for Large Companies and Strategic Economic Sectors (UGE-CE), which handles business immigration. This organisation facilitates the entry into the country of investors, entrepreneurs, highly skilled workers, research workers and their relatives.

iii Exemptions and favoured industries

The following are exempt from obtaining work permits to perform a professional or remunerative activity:⁷

- a* technicians, researchers, scientists and professors invited or hired by the General State Administration, the autonomous communities, universities, local entities or organisations whose purpose is the promotion and development of research;
- b* teachers, technicians, researchers and scientists invited or hired by a Spanish university;
- c* management personnel or teaching staff of cultural institutions, or teachers either foreign state-sponsored or private, of accredited prestige and officially recognised by Spain, who develop in Spain cultural and educational programmes for their respective countries, provided they limit their activity to the execution of such programmes;
- d* civil or military officials of foreign state administrations that come to Spain to develop activities under cooperation agreements with the Spanish administration;
- e* correspondents of foreign media;
- f* members of international scientific missions carrying out work and research in Spain authorised by the Ministry of Education and Science or by the Ministry of Industry, Tourism and Commerce; and
- g* artists who come to Spain to perform specific actions that do not involve a continuing activity.

As mentioned above, Law 14/2013 introduced new visas with more responsive application procedures and established a general resolution period of 10 days for all visas specified in the Law. The main objective of this Law is to introduce mechanisms specifically designed to attract investment and talent and is characterised by agile procedures and specialised channels.⁸

II INTERNATIONAL TREATY OBLIGATIONS

Spain is a member of the EU and the EEA, which grants employment benefits to nationals of Member States of those institutions. The freedom to work in another EU country without a work permit is a right of all EU citizens. Although Iceland, Liechtenstein and Norway are not Member States of the EU, they belong to the EEA, and therefore their nationals are admitted on equal terms to the citizens of the EU.

6 Antonio Ernesto Arenas Lopez and Adriana Agudo Martin (2016). *Business Immigration*. Thomson Reuters. 254–255.

7 Article 117 of Royal Decree 557/2011.

8 The Explanatory Memorandum of Law 14/2013 of 27 September on Supporting Entrepreneurs and Their Internationalisation.

Under the Agreement on Free Movement of Persons between the EU and Switzerland, Swiss citizens have the right to reside and work in the EU. The majority of EU citizens do not need permission to work in Switzerland. Only Croatian nationals need a work permit.

However, Spain is also party to the Schengen Agreement, whose members have abolished internal borders and instead established a single external border. Within this space, there are common procedures and rules for issuing visas. The Schengen Area works like a single country in migratory matters, so once a person crosses the border of any country in this area, he or she can move freely through the Schengen Area and remain until his or her visa expires, without being forced to obtain a different visa for each country that he or she intends to visit in the Area.

Further, Spain has signed bilateral agreements on the regulation of migratory flows with Bulgaria, Colombia, the Dominican Republic, Ecuador, Morocco, Poland and Romania. These agreements are especially important in view of reforms made to Spanish immigration law: Law 14/2003 modified Article 39.3 of Organic Law 4/2000, establishing that seasonal work offers will be oriented preferentially towards those countries with which Spain has signed an agreement on the regulation of migratory flows.⁹ Notably, Spain has also adopted several framework cooperation agreements in immigration matters with a number of African countries to promote orderly immigration.

Following the United Kingdom's departure from the EU, Regulation (EU) 2018/1806¹⁰ was amended on 10 April 2019 to add the United Kingdom to Part 1 of Annex 2 of the Regulation, and Gibraltar and other British overseas territories to Part 3 of Annex 2.

III THE YEAR IN REVIEW

Due to the covid-19 pandemic, changes in immigration law have been very limited, mostly focused on dealing with Brexit, the granting of extensions of works permits and authorisations of those foreigners already in Spain and the establishment of new mechanisms to deal with immigration applications.

Currently, because of the covid-19 pandemic, Spain's frontiers are closed to citizens of third countries with some exemptions.¹¹ However, immigration-related applications were resumed on 1 June 2020, which should continue as long as the applicant is able to attend the necessary appointments.

9 Article 17 of Law 14/2003.

10 Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

11 Order INT/270/2020 of 21 March establishing criteria for the application of a temporary restriction on non-essential travel from third countries to the European Union and associated Schengen countries for reasons of public order and public health due to the health crisis caused by covid-19.

IV EMPLOYER SPONSORSHIP

i Work permits

To work in Spain, a work permit, obtained with the residence permit, is required. The types of permit vary depending on whether the migrant will be working for himself or herself, or for others. Visas are essential for non-EU citizens and must be processed in the foreign national's country of origin; visas are requested at and produced by the Spanish consulates of relevant countries abroad.

Decisions refusing the granting and the renewal of work permits may be open to administrative or judicial review. In accordance with Law 39/2015 of 1 October on the Common Administrative Procedure of the Public Administrations, there are two types of administrative appeal: an appeal for review by the institution that issued the decision and an appeal to a higher authority. The final administrative decision shall be subject to jurisdictional review pursuant to Law 29/1998 of July 13 on the Contentious-Administrative Jurisdiction.

Classes of work permits

Working for others

Initial authorisation of temporary residence and paid employment will enable foreign nationals residing outside Spain who have obtained the corresponding visa to start a relationship of employment for others.

Types of work permits for work employed by others include:

- a Type B (initial), which is for a specific sector or activity and geographical area, valid for one year, after which it is possible to obtain a Type B (renewed) permit;
- b Type B (renewed), which authorises the exercise of any activity throughout the national territory and is valid for two years; and
- c Type C, which authorises the exercise of any activity throughout the national territory.

The holders of a Type B (renewed) permit may obtain a Type C permit at the end of the Type B (renewed) permit's two-year term.

Self-employment

Types of work permits for self-employed individuals by others include:

- a Type D (initial), which may be limited to the exercise of a specific activity and for a specific geographical area, and which is valid for one year, after which the holders of a Type D (initial) permit can obtain a Type D (renewed) permit;
- b Type D (renewed), which authorises the exercise of any activity throughout the national territory and is valid for two years; and
- c Type E, which authorises the exercise of any activity throughout the national territory.

The holders of a Type D (renewed) permit may obtain a Type E permit at the end of the Type D (renewed) permit's two-year term.

Other permits and authorisations

Other types of permits include:

- a Type F for cross-border workers, employed by others or self-employed;
- b Type G for work within the framework of transnational services; and
- c Type A for seasonal work.

ii Labour market regulation

The main state employment laws in Spain are:

- a* Spanish Constitution of 1978;
- b* Royal Legislative Decree 2/2015 of 23 October 2015 Approving the Revised Text of the Workers' Statute;
- c* Law 31/1995 of 8 November 1995 on the Prevention of Occupational Risks;
- d* Organic Law 11/1985 of 2 August 1985 on Freedom of Association;
- e* Royal Legislative Decree 1/1994 of 20 June 1994 on Social Security and Protection of the Labour Market; and
- f* Law 23/2015 of 21 July 2015 on the Labour and Social Security Inspection System, assigning monitoring of compliance with social security regulations to the Labour and Social Security Inspectorate.

In accordance with Law 23/2015, the inspection function is carried out by officials of the Superior Corps of Labour and Social Security Inspectors and of the Corps of Labour Sub-Inspectors. Labour and social security inspectors have competence in labour relations, prevention of labour risks, social security, employment, migration (work of foreign nationals and migratory movement) and technical assistance.

The Labour and Security Inspectorate has the authority to investigate workplaces employing illegal immigrants through dawn raids to request, from the acting official (or representative of the duly obliged persons), to make visits, and to request the provision of documentation or pertinent clarifications, or by means of administrative files. Depending on the outcome of the investigation, public proceedings may be instigated. Inspection proceedings may be carried out by one or more officials and extended as necessary.¹²

iii Rights and duties of sponsored employees

Foreign sponsored employees have the same rights as Spanish workers; however, those workers bear autonomous responsibility for their situation and for renewing their work permit when appropriate. Foreign workers who are employed by others and have not renewed their work permit or do not have a valid work permit, may have their employment contract terminated. If the work permit is lost in the course of work undertaken with a current employment contract, this may result in loss of employment or termination by the company, which would be characterised as objective dismissal, pursuant to the Workers' Statute. In a situation of this type, the employer would be obliged to compensate the worker for dismissal for objective reasons.¹³

After five years of living legally and continuously within Spanish territory, foreign employees can apply for a long-term residence permit authorising them to reside and work in Spain indefinitely under the same conditions as Spaniards, so long as they:

- a* are not citizens of a Member State of the EU, of the EEA or Switzerland, or family members of citizens of these countries to whom the regime of citizen of the EU applies;
- b* are not residing illegally or without the necessary permission from the immigration authorities within Spanish territory;
- c* have no criminal record in Spain;

¹² Article 21 of Law 23/2015 of 21 July.

¹³ Sentence of the Labour Chamber of the Spanish Supreme Court of 16 November of 2016.

- d* are not prohibited from entering Spain; and
- e* are not returning during a period in which returning to Spain is forbidden on account of the foreign national having voluntarily returned to his or her country of origin.

Further, to be granted nationality by way of residence, continuous residency in excess of 10 years is required; five years will suffice for those who have obtained refugee status, and two years in the case of nationals from Ibero-American countries, Andorra, Equatorial Guinea, the Philippines, Portugal or of Sephardi origin. One year will suffice in special cases,¹⁴ such as:

- a* those born in Spanish territory;
- b* those who did not exercise the right to opt for Spanish nationality in good time;
- c* those who have been the legal subject of guardianship or fostering by a Spanish citizen or institution for two consecutive years, even if they continue in this situation at the time of the request;
- d* those who at the time of the application have been married to a Spanish citizen for more than one year and are not legally or de facto separated;
- e* the widow or widower of a Spanish citizen if on the death of the spouse there is no legal or de facto separation; and
- f* those of Spanish descent by second or third generation.

In all cases, the residence must be legal, continuous and have occurred immediately prior to the request.

V INVESTORS, SKILLED MIGRANTS AND ENTREPRENEURS

Law 14/2013 enables investors and entrepreneurs to set up in economic activity in Spain without the support of a sponsor.

Foreign persons wishing to make a significant investment in Spain can apply to the Spanish consulate corresponding to his or her domicile for a residence visa that lasts for one year; or to the UGE-CE for residence authorisation for two years.

A significant investment of capital is understood as an initial investment of a value equal to or greater than the following: €2 million in Spanish public debt; €1 million in shares, social participations in Spanish companies or banking deposits in Spanish financial institutions; or €500,000 in Spanish real estate.

In addition to the established general requirements, the applicant must prove having made the investment in the minimum amount required within a period not exceeding 60 days prior to the submission of the application, as follows:

- a* Investment in unlisted shares or social participations: the copy of the investment statement made in the Registry of Foreign Investments of the Ministry of Economy and Competitiveness must be presented.
- b* Investment in listed shares: a certificate from the financial intermediary, duly registered with the National Securities Market Commission or Bank of Spain, must be presented stating that the interested party has made the investment for the purposes of the standard.

14 Article 22 of the Civil Code.

- c* Investment in public debt: a certificate from the financial institution or the Bank of Spain must be presented stating that the applicant has been the sole owner of the investment for a period equal to or greater than five years.
- d* Investment in a bank deposit: a certificate from the financial institution must be presented stating that the applicant is the sole owner of the bank deposit.
- e* Investment in real estate: a land registry certificate showing continuous ownership must be presented. This certification will have to be issued within 90 days prior to the presentation of the residence visa application. If, at the time of the visa application, the acquisition of the property is in the process of being registered with the Property Registry, it will be sufficient to produce documentation certifying the acquisition document, accompanied by the documentation accrediting the payment of the corresponding taxes. The minimum, €500,000, must be free of any charge or lien.

Foreign nationals from outside the EU can apply for temporary residence for entrepreneurial purposes provided their business demonstrates innovative character and a special economic interest for Spain. To demonstrate this, the investor must present the visa application to the relevant Economic and Commercial Office of the Diplomatic Missions of Spain (Commercial Office) and, in the first instance, the business interest must be approved in a favourable report from the relevant Commercial Office.

On this basis, investors who present a business project to be developed in Spain that is considered and accredited as being of general interest can apply for this type of visa, as can those who have planned to enter and remain in Spain for a period of one year with the sole or main purpose of carrying out the above-mentioned procedures to be able to develop an entrepreneurial activity.

Capital investment is admissible when the investment is carried out by a legal entity provided that, in accordance with Spanish regulations, it is not established in a tax haven state and the foreigner holds directly or indirectly the majority of the voting rights and the power to appoint or assign the majority of the members of its administrative body.

In the case of entrepreneurs, as noted above, the proposed entrepreneurial activity must be of proven innovative character and of special interest and significant benefit for Spain, and this should be supported by a favourable report from the relevant Commercial Office.

Skilled migrants may obtain temporary residence and work authorisation to perform a work activity for which a higher education qualification or, exceptionally, a minimum of five years of comparable professional experience is required; however, it is an essential requirement to produce a contract signed by the worker and the employer guaranteeing the worker continuous employment during the period of validity of the authorisation to reside and work in Spain.

VI OUTLOOK AND CONCLUSIONS

Quite apart from the border closures and the other measures taken, the current political scenario in Spain, with multiple parties and a coalition government, means that it remains unlikely that the Congress of Deputies will achieve consensus on the adoption of new immigration laws in the coming year, which could mean an actual change in the immigration framework, particularly as the current mainstream political parties have opposing points of view on immigration matters.

Despite the lack of production of new immigration regulations, however, we can still see that the current government has continued to address the issue of the need for workers specifically required to cover temporary jobs such as those related to harvesting or plant construction or for the benefit of Spanish grandchildren, which will be allowed to enter into Spain to find a job (Order TMS/1277/2019).

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