

GMS Flash Alert

Immigration Edition

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Spain - New Procedures for Work Permits in Cinema Industry

The Spanish Ministry of Migrations on 12 November adopted new instructions affecting the immigration procedures for foreign professionals who are active in the audiovisual sector.¹ The instructions are part of a plan to simplify procedures for hiring and transferring foreign audiovisual professionals to keep Spain competitive in this industry.

Certain professionals described in the instructions will be exempt from applying for a work authorisation, and may stay up to 90 days in any 180-day period to carry out an activity in the audiovisual sector. Other foreign nationals included in the scope of the instructions may enter or remain in Spain for a period of more than 180 days upon request for a residence permit for the audiovisual sector.

WHY THIS MATTERS

The instructions open up additional possibilities for foreign nationals with skill sets and qualifications in the audiovisual sector to come to Spain to live and work.

Last summer, work permits came under the jurisdiction of a different law with more flexible timing and procedures. The procedures are now being updated to address the new reality, which is aimed at creating important opportunities for this sector in Spain² (for prior coverage, see [GMS Flash Alert 2021-196](#), 13 July 2021).

Who Can Apply?

The instructions do not apply to citizens of the European Union (EU) or to those foreign nationals to whom EU law applies, as they have the rights of free movement and residence. They also do not apply to foreign nationals whose travel to Spain is covered by the freedom to provide services in the European Union.

The purpose of the new instructions is to establish the form, requirements and deadlines to authorise the stay and residence of foreign nationals who meet certain requirements and who carry out activities in the audiovisual sector or artistic activity conducted for the public or intended for recording of any kind for broadcasting by different mass media.

The instructions apply to:

- Foreign artists, technicians and professionals who are going to carry out activities in the audiovisual sector, artistic activities conducted for the public or aimed at recordings of any kind for dissemination by different mass media.
- (i) The spouse or person with a similar accredited relationship, minor or older children who, economically dependent on the main applicant, have not themselves constituted a family unit; (ii) also dependent ascendants who are economically dependent on the main applicant. Such individuals may request, jointly and simultaneously or successively, one of the authorisations included in the instructions. The instructions may apply as well to the parents or guardians of the minor who exercises an activity in the audiovisual sector. They must prove compliance with the general requirements set forth in the instructions.

Minors participating in audiovisual productions must comply with the provisions of Royal Legislative Decree 2/2015, of October 23, which approves the revised text of the Workers' Statute Law, in cases where said minors are between 16 and 18 years old, and they have the express consent of their parents or guardian, and, in the case of minors under 16 years of age, where there is an express authorisation from the corresponding labour authority. In these cases, the parents or guardians of the minor will request the visa and / or authorisation of stay and / or residence.

General Requirements for Stay or Residence

Applicants must:

- have an employment or professional relationship with the company that transfers or hires the professional to/in Spain within the scope of the instructions;
- in the case of stays of up to 90 days, comply with the conditions of entry into the Schengen area, provided for in Regulation (EU) 2016/399 establishing a Code of Union rules for movement of people across borders (Schengen Borders Code), and have travel medical insurance;
- have medical insurance that covers the entire period of the stay regulated in chapter II or residence, with coverage similar to that offered by the public health system;
- have sufficient financial resources for themselves and for the family members who accompany them during their period of stay or residence in Spain, which can be shown, where appropriate, by means of the employment contract or by supporting documentation indicating the existence of a professional relationship.

Companies that hire or transfer foreign artists, technicians or professionals included within the scope of the instructions must prove compliance with the following requirements:

- a) Show that they are part of the production project in the audiovisual sector or artistic activity conducted for the public or that there is to be a recording for its broadcast by different mass media.
- b) Be registered in the social security system and be up to date with the fulfilment of their obligations to social security and to the State Tax Administration Agency.

Three Types of Permits

The instructions articulate three types of permits depending on the period of stay of the audiovisual professional in Spain.

- 1 Those who will stay in Spain for up to 90 days in any 180-day period will be exempt from the obligation to obtain a work authorisation.
- 2 Those who are going to stay in Spain for a period of more than 90 days, up to a maximum of 180 days, may obtain a visa that will constitute a sufficient title to stay and work in Spain during the visa's term. In addition, it is anticipated that those foreign nationals who initially had come to Spain for a period of 90 days of stay in any 180-day period may request a stay authorisation for the audiovisual sector for a maximum period of 180 days.
- 3 Foreign nationals who are going to reside and work in the sector audiovisual for more than 180 days may request a residence authorisation or permit.

Effective Date

The instructions took effect 12 November, the day following their publication in the *Boletín Oficial del Estado* (official state gazette).

KPMG NOTE

Any questions or concerns should be directed to your qualified professional adviser or a member of the GMS/People Services team with the KPMG International member firm in Spain (see the Contact Us section).

FOOTNOTES:

1 See (in Spanish): *Orden PCM/1238/2021, de 12 de noviembre, por la que se publica el Acuerdo del Consejo de Ministros de 2 de noviembre de 2021, por el que se aprueban las instrucciones por las que se determina el procedimiento de entrada y permanencia de nacionales de terceros países que ejercen actividad en el sector audiovisual* at: https://boe.es/diario_boe/txt.php?id=BOE-A-2021-18582 .

2 See (in Spanish) *Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización* published in *Boletín Oficial del Estado*, núm. 233, de 28 de septiembre de 2013, páginas 78787 a 78882 (96 págs.) at: https://boe.es/diario_boe/txt.php?id=BOE-A-2013-10074. And *Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social* published in *Boletín Oficial del Estado*, núm. 10, de 12/01/2000 at: <https://boe.es/buscar/act.php?id=BOE-A-2000-544>.

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Contact us

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* Please note that KPMG LLP (U.S.) does not provide any immigration services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.

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