



**Global Employment
Compass
Spain**

Contents

- 1. Summary of applicable rights for different categories of workers2
- 2. Legal requirements/rights/practices for different categories of workers.....3
 - a. Employees.....3
 - b. Independent contractors/consultants*18
 - c. Volunteers26
 - d. Non-citizen employees and consultants, including refugees and others forcibly displaced.....29

PILnet and partners participating in this Global Employment Compass guide are not liable towards third parties for the accuracy of the information contained in this guide. The information contained herein does not set out a comprehensive picture of the law and is not tailored to any particular circumstances. It should not therefore be seen as a substitute for obtaining legal advice. The guide was last updated in October 2023 and responds to the legal framework in effect at that time.





1. Summary of applicable rights for different categories of workers

	Employees (part-time or full-time)	Independent contractors/ service providers	Volunteers
Employment laws and regulations	Yes	No	Yes
Employees' compensation/ remuneration requirements	Yes	No	No
Minimum wage requirements	Yes	No	No
Mandatory provident fund/retirement benefit fund contributions	Yes	No	No
Immigration requirements including the right to work in your country	Yes	Yes	No
Personal Data (Privacy) laws and regulations	Yes	Yes	Yes
Anti-discrimination laws and regulations	Yes	Yes	Yes



2. Legal requirements/rights/ practices for different categories of workers

a. Employees

Section Contents

1 Contracts of Employment.....	3
2 Conditions of employment	7
3 Safe and supportive work environment.....	12
4 Tax	13
5 Remote work.....	14
6 What to do when things go wrong?	15

Definition of an employee

Spanish employment law distinguishes between employees and those who are self-employed, that is, independent contractors.

The typical elements of an employment relationship are: (i) the subordination of the employee to the supervisory, managerial, and disciplinary powers of the employer; (ii) the payment to the employee of a fixed monthly wage, regardless of the results of the working activity; (iii) the lack of assumption of risk by the employee.

1 Contracts of Employment

What types of employment contracts are available? E.g. fixed term, part time, zero hour contracts, other? Are there any specific employment contracts available for non-profit organizations?

There are four main types of employment contracts: **permanent or indefinite** (*contrato indefinido*), **temporary or fixed-term** (*contrato temporal*), **contract for training and apprenticeship** (*contrato para la formación y aprendizaje*) and **internship** (*contrato en prácticas*).

Additionally, other types of atypical contracts exist and are being used more often, such as fixed discontinuous indefinite term contracts (e.g. a contract to work for one set period recurring every year).

What are the key terms of employment contracts?

Ordinary contracts must contain the following provisions: identity of the parties, details of the place of work, employee's professional category, hours of work, date of commencement of the





employment relationship, probationary period (if any), salary and benefits, holidays, and any applicable collective bargaining agreement.

Is it acceptable to have a probation period for employees? If yes, for how long?

Yes. A probationary period will be valid when:

- it has been agreed prior to the start of the employment relationship, with the agreement of the parties recorded by the signing of the contract; and
- it is express and in writing. If the contract does not expressly state that a probationary period has been agreed, it will not be valid, even if the collective bargaining agreement stipulates that the employee will start the employment relationship working under a probationary period.

The duration of the probationary period shall be, as a maximum, as follows (unless the collective agreement stipulates an alternative period):

- 6 months for qualified technicians;
- 2 months for other employees;
- 3 months in companies with less than 25 workers (workers who are not qualified technicians).
- 1 month for temporary contracts of less than 6 months.

A probationary period cannot be agreed if the employee has previously performed the same duties in the company as those stipulated in the contract.

Unless otherwise agreed, the parties can terminate the contract within a probationary period without prior notice, and without needing to state a fair reason or pay any economic compensation.

Are fixed term employment contracts permissible? Are there any limitations on fixed term contracts? Are there any requirements to have a fixed term contract?

A fixed-term employment contract may only be entered into due to circumstances of production (i.e. when there is an occasional and either a foreseeable or unforeseeable increase in the demands of production) or for the replacement of an employee. The contract must precisely specify the reason for the temporary contract, the specific circumstances that justify it and its connection with the planned duration.

Fixed-term employment contract due to circumstances of production: There are two separate circumstances where such contracts may be used, with different maximum duration requirements associated with each circumstance.

- a. When the increase in demand is occasional and unforeseeable:** This type of contract can be used when there is an occasional and unforeseeable increase in the demands of production which, even in the normal course of business, generates a temporary mismatch between employees available and the headcount required.

Duration: 6 months, extendable to 1 year if the applicable collective bargaining agreement allows it. If this period is exceeded, the employee would become permanent.

- b. When the increase is occasional and foreseeable:** This type of contract can be used when there is an occasional but predictable increase in the demands of production which, even in the normal course of business, generates a temporary mismatch between employees available and the headcount required. For example, seasonal demand at Christmas and seasonal sales such as during Black Friday.





Duration: maximum of 90 days per year on a non-continuous basis. If this period is exceeded, the employee would become permanent.

Fixed-term employment contract for replacement of an employee:

This type of fixed-term contract can be used to:

- a. replace an employee that has a **job reservation entitlement** (e.g. an employee on maternity leave, or with a temporary disability)

Duration: the duration of the absence of the replaced employee with the right to the reservation of the job

- b. **complete an employee's reduced working hours;**

Duration: during the reduction of working time.

- c. temporarily cover a job position during a **selection/promotion process.**

Duration: a maximum of 3 months or a shorter period as established in the applicable collective bargaining agreement

If the temporary employee has been hired for a period of more than 18 months in a period of 24 months (whether this was continuous or not) through two or more fixed-term contracts due to circumstances of production, either directly or through a temporary employment agency, they will become permanent employees. Likewise, employment will be considered permanent if during the period mentioned above, several employees have been employed in the same position under the same temporary cause.

Above all, each contract must specifically state what the qualifying cause is for the contract to exist, the specific circumstances that justify it and its connection with the foreseen duration. The contract should also be registered, together with any extensions of the contract, with the Employment Office.

Do employment contracts have to be in writing? Are there any signatory requirements for employment contracts? For example, could they be signed in-person or electronically, etc.)?

Generally, the employment contract may be concluded either in writing or orally. However, for the following types of contracts, it is compulsory for the contract to be in writing:

- For the Acquisition of Professional Practice
- Training in Alternation
- Part-time, fixed-term and relief contracts
- Distance learning
- Employees contracted in Spain to work for Spanish companies abroad
- Fixed-term contracts lasting more than four weeks
- Fishermen's contracts
- Remote contracts





Each of the parties may require that the contract be concluded in writing, at any time during the course of the employment relationship.

An electronic signature can be used to sign an employment contract.

Do employees have to be issued with a written employment contract before they start work?

Not necessarily. Either party may require the contract to be in writing, even during the employment relationship.

Can you provide a simple template of the contracts mentioned above?

N/A.

Is there an obligation for an employer to run a criminal record check to the extent that any individual they hire will be working with children or vulnerable people?

As a rule, the law prohibits processing information on background checks/reference checks/sanctions, however there is a limited exception for professionals working with minors: this check will be limited to the request of a negative certificate of criminal record related to offenses of a sexual nature.

Can employers request references from former employers for new hires?

Employers are not allowed to carry out background checks/reference checks in Spain unless falling within one of the limited exemptions, which are:

- a. The Public Administration, the Police or the army. In such professions, good citizenship must be accredited by the provision of a negative criminal record certificate
- b. Companies that have the status of "obliged subject" under the money laundering and terrorist financing regime in force in Spain (generally applies to banks)
- c. Insurance agencies and brokers
- d. Professionals working with minors
- e. Casinos: Employees, partners, representatives and/or managers must not have a criminal record.

Is an employer required to set up any form of employee representative body? If so, what is the trigger for this?

Employees are represented by works councils (in companies with more than 50 employees) or employee delegates (in companies with 10 to 50 employees). For companies that have less than 10 employees, the representation by employee delegates is at the option of the employees. Legislation also provides for the creation of European Works Councils, but these are not common in practice.

If there is a negotiation process (for example, a collective dismissal process) this is conducted with any representative body (works council or employees' delegates). A works council is not a legal entity and does not have the capacity to act in its own right. All action must be sanctioned by a majority member vote.

Is it common to have collective agreements in your jurisdiction that apply to all employers in a particular region or sector?





Collective bargaining agreements (CBAs) set out labor and productivity terms and conditions and aim to achieve good labor relationships through mutual obligations.

Every employment relationship in Spain must be governed by a CBA. Every CBA is linked to an industry or sector and can be national or regional. CBAs are negotiated by the main trade unions and the corresponding sector or industry employers' representatives.

Companies may have a CBA based on an equivalent agreement at a higher level (for example a local CBA may be based on a national CBA, or an industry CBA may be based on a sector CBA) in relation to several matters. This makes it difficult to improve the conditions contained within the CBA.

Once the CBA is negotiated and the content agreed, the corresponding CBA is published in the Official Bulletin and is binding on all affected companies.

2 Conditions of employment

What is the minimum age requirement for employment?

The law generally prohibits young employees under the age of 16 from engaging in any work. For individuals under the age of 18, there are restrictions on certain types of work and specific working conditions to protect young employees and ensure their safety and well-being (see [below](#)).

What type of work may a child undertake? For example, are there any specific restrictions?

Young persons under the age of 16 are generally prohibited from undertaking work, except for limited exceptions such as artistic or cultural performances, and certain types of work during school holidays with authorization from the competent authorities if there is no danger to the child's health or to their professional and personal training. The restrictions are primarily governed by the Spanish Child Protection Act (Ley Orgánica 3/2015, de 30 de marzo, de control de la actividad económica y financiera del Estado sobre los secretos protegidos por el secreto profesional en el ámbito del trabajo).

For young employees between the ages of 16 and 18, there are additional limitations on the types of work, working hours, and conditions to safeguard their health and education. Employees under the age of 18 may not perform night work or overtime.

Wages

What is the minimum wage requirement for employees? Are there any exceptions in minimum wages for young persons or people with disabilities?

There is a minimum wage which is established every year by the Spanish Government after consultation with the trade union organizations and the representative employers' associations. The statutory minimum wage for 2023 is €36/day; €1,080/month; €15,120/year.

CBAs provide the minimum wage for each professional group; therefore, salaries cannot be lower than those established in CBAs for the corresponding professional group.

For employees with disabilities, a personal and absorbable supplement must be established where the amount of the salary as a whole and on an annual basis is less than the minimum wage, so that the employee receives at least €1080 per month.

Are there any conditions which warrant a pay raise or extra pay? If yes, what are they?





Besides the base salary (fixed remuneration), there may be salary supplements paid based on circumstances relating to the employee's personal conditions, the work performed and the company's results. These include seniority, special payments, job complements, and production bonuses.

When are wages due? For example, is there any obligation to pay wages weekly, or monthly?

The period in which wages are paid must not exceed one month.

Wages are commonly paid in 14 monthly instalments (sometimes 15 or 16, depending on the CBA). In that event, 12 instalments are paid monthly and the remainder as extraordinary payments.

Are employers obliged to provide employees with paid leave on public holidays?

Yes. Employees are entitled to 14 paid public holidays each year.

Are employers obliged to provide employees with annual leave?

Yes. Employees are entitled to a minimum of 30 calendar days' paid holiday per year. A corresponding collective bargaining agreement may make different arrangements (though never lower than the minimum). There is no right to payment in lieu of holiday entitlement.

Are employees entitled to receive their usual salary during their annual leave?

Yes. Nevertheless, holidays may not be replaced by financial compensation, except on termination of employment where there is accrued but untaken holiday remaining.

Is there a requirement to pay overtime? How is overtime compensated?

Overtime is considered to be those hours of work that are performed over the maximum duration of the regular working day.

By means of an agreement or individual contract, overtime may be paid at the agreed amount (not less than the value of the ordinary hour) or compensated by time equivalent to paid rest periods.

Are there any extraordinary circumstances that could be relied on to temporarily cease paying employees for the hours worked?

An employer could cease to pay its employees on economic grounds or due to force majeure.

- a. Economic grounds: this ground applies where the company's results show a negative economic situation, in cases such as the existence of current or expected losses, or a persistent decrease in the level of ordinary income or sales. In any case, the decline will be deemed persistent if over three consecutive quarters the level of ordinary income or sales in each quarter is lower than that recorded in the same quarter of the previous year.
- b. Force majeure: this ground refers to unforeseeable or unavoidable extraordinary events that make it definitively impossible to carry out the work (fire, flood, etc.). Such a situation must be confirmed by the labor authority.

Are employees entitled to an end-of-year payment?

Employees are entitled to two extraordinary bonuses per year, one at Christmas and the other at a month confirmed by collective agreement or by agreement between the employer and the legal





representatives of the employees. Alternatively, by agreement, these extraordinary payments can be spread across the ordinary 12 payments. The amount of these payments is determined and fixed by agreement.

Are employees entitled to payments when their employment contract is terminated, such as notice or notice pay, accrued or untaken holiday and/or statutory severance?

Employers are not generally required to provide a notice period for dismissal, unless in the case of the termination of employment on objective grounds (i.e. (i) the employee's known or observed ineptitude following appointment; (ii) the employee's failure to adapt to technical modifications to their role; (iii) an objectively accredited need to eliminate the employee's post for economical, technical, organizational, or productive reasons; and (iv) absences from work) or in the case of collective dismissals, when notice of 15 days (or payment in lieu) must be given unless an alternative period is agreed by the parties or mandatorily set in the applicable CBA.

Where employment is terminated without a fair reason, the employer must pay the employee the following compensation:

- **For employees hired after 11 February 2012 (date fixed by law):** 33 days of salary per year of service with a maximum limit of 24 monthly salaries.
- **For employees hired before 11 February 2012 (date fixed by law):** 45 days of salary per year of service for service accrued up to and including 11 February 2012.

On termination, payment must also be made for any outstanding wages and any accrued but untaken holiday entitlement.

Working hours

What is considered a full time working week? If the employee is contractually required to work less than this amount are they considered a part time employee?

The duration of the working day shall be as agreed in a collective agreement or an employment contract. However, ordinary working hours may not exceed a maximum of 40 hours per week of actual work on an annual average.

Employment shall be deemed as part-time if it has been agreed to provide services for several hours per day, per week, per month or per year when the working period of time is less than a comparable full-time employee. A comparable full-time employee means a full-time employee in the same undertaking and establishment, with the same type of employment contract and performing the same or similar work. If there is no comparable full-time employee in the undertaking, the working time for a full-time worker as set out in the applicable collective agreement or the maximum legal working time (40 hours) shall be considered for comparison purposes.

Are there fixed public/statutory holidays each year? Can employees be required to work on public/statutory holidays? Are employees entitled to any other type of leave besides public/statutory holidays?

Employees are entitled to 14 paid public holidays each year. These 14 days are distributed differently in each locality. 2 holidays are chosen by the town council of the corresponding locality, 3 by the autonomous community and the remaining 9 by the central state administration.





All employees in all sectors have the right to the 14 public holidays. If an employee works on a public holiday, they must be compensated by means of a rest break or financial compensation.

Other types of leave include:

- a. Maternity leave:** in the event of childbirth, an entitlement to a suspension period of 16 uninterrupted weeks leave, of which 6 weeks will be mandatory and 10-weeks can be taken on a full-time or part-time basis. This can be taken consecutively to the mandatory period, or on an interrupted basis in weekly periods (cumulative or independent) from the end of the compulsory 6 weeks, until the child reaches 12 months of age. The employee must notify the company at least 15 days in advance of each weekly period or accumulation of periods. Full or part-time use of this period will require an agreement between the company and the employee.

It is possible to start maternity leave 4 weeks before the expected birth, which would be included in the maximum 16-week period.

- In the case of multiple births, this period may be extended by one week for each child and each parent, from the second child onwards. Also, one additional week for each parent in the event of a child with a disability.
- In the event of the death of a child, the period of suspension shall not be reduced unless the employee returns to work at the end of the 6 weeks of mandatory leave.
- In cases of premature birth or where a newborn baby must remain hospitalized after birth for a period of more than 7 days, the benefit may be extended by as many days as the baby is hospitalized, up to a maximum of 13 additional weeks. This extension may be enjoyed by each of the parents, from the time of discharge from hospital. The weeks of compulsory rest are excluded from this calculation.

- b. Paternity leave:** in the event of childbirth, an entitlement to a suspension period of 16 weeks leave, of which the first 6 weeks will be mandatory and uninterrupted.

- In the event of the death of the biological mother, regardless of whether the mother was employed, the other parent shall be entitled to the 16 weeks provided for the biological mother.

- c. Adoption leave:** in the event of adoption, an entitlement to a suspension period of 16 weeks leave, of which the first 6 weeks will be mandatory and uninterrupted. In the case of international adoption when the prior travel of the parents to the country of the adoptee is necessary, the period of suspension may begin up to 4 weeks before the decision establishing the adoption.

- d. Additional special leave of absence** may be granted for certain events such as marriage, moving house or the death of a close relative.

Do part time employees receive any particular protection on the basis of their part-time status?

Yes. Part-time employees have the same rights as full-time employees.

Do part-time employees receive the same pro-rated terms to full time employees, e.g. in relation to pay and benefits?





Any rights, benefits, or conditions applicable to part-time employees shall be recognized on a pro rata basis according to the time worked.

For the purposes of certifying the contribution periods necessary for entitlement to retirement, permanent disability, death and survival, temporary disability and childbirth and childcare benefits, the different periods during which the employee has been registered with a part-time contract will be considered, regardless of the length of the working day in each of them.

Social security

What social security contributions are employers obliged to pay? Presumably, pro-rated contributions are required for part time employees?

Social security contributions are mandatory for the full duration of any employment relationship. Both employers and employees are liable for contributions, however it is the employer who is responsible for paying the social security contributions.

Social security contributions are calculated by applying annually established percentage rates to a contribution base. This contribution base is determined based on the monthly remuneration paid to the employee and must be between a minimum and a maximum amount, depending on the employee's professional category.

Are employers obliged to provide health insurance to their employees?

This will depend on the employee's collective bargaining agreement applicable to the sector and business activity.

Are employees entitled to unemployment insurance/benefits following the end of employment?

Entitlement will depend on the reason for the end of employment. Social security contributions cover the following risks: (i) common illness, non-occupational accidents, (ii) workplace accidents, work-related illnesses, and (iii) other risks and concepts, such as unemployment, vocational training and the wage guarantee fund.

Are employers obliged to provide sick leave? If yes, for how long? How many days have to be paid by employers? Is it possible to have unpaid sick leave?

Yes, for accident or illness, employees are entitled to receive statutory sick pay, subject to minimum and maximum limits.

For work-related accidents or illness, sick pay is paid from the day after the event; with the Social Security paying 75% of the basic social security contribution.

For non-work-related accidents or illness, sick pay is paid by Social Security from the 16th day of absence. The employer must pay from the 4th to the 15th day inclusive. The payment is 60% of the basic social security contribution up to the 20th day of illness and 75% of the basic contribution from the 21st day.

In the event of disease or injury, the maximum duration period is 365 days, which can be extended for a further 180 days if during this extended period the person is expected to recover.

In many collective agreements, the employer is obliged to pay the difference between the statutory sick pay and the employee's normal pay.





Are employers obliged to provide maternity leave for employees? If yes, for how long? How many days/months have to be paid by employers? Is it possible to have unpaid maternity leave?

Please see [above](#).

Is paternity leave available to employees? If yes, for how long? How many days/months have to be paid by employers? Is it possible to have unpaid paternity leave?

Please see [above](#).

Are employers liable for absence due to work-place injuries?

Please see [above](#).

Are employees entitled to retirement benefits from the employer? If yes, what benefits?

It is not mandatory for an employer to grant access to a pension scheme. However, if the employee has paid the appropriate social security contributions throughout their employment, they will be eligible to receive a Government retirement pension.

Are employers obliged to introduce reporting channels and legal safeguards for whistleblowers?

All companies with 50 or more employees, as well as all public administrations, are obliged to set up a whistleblowing channel.

The deadline for setting up a whistleblowing system is:

- **June 2023:** all companies with a workforce of more than 250 employees and all public sector organizations (except for municipalities with less than 10,000 inhabitants), must have implemented their own whistleblowing channel by 13 June 2023.
- **December 2023:** all companies with between 50 and 249 employees and municipalities with less than 10,000 inhabitants must have their own whistleblowing channel in place by 1 December 2023.

3 Safe and supportive work environment

Broadly what measures have to be in place to ensure employers uphold health and safety? (such as fire or earthquake drills)

Employers, including public administrations, have a duty to protect their employees against occupational hazards, guaranteeing their health and safety in all aspects related to their work, by integrating preventive activity in the company and adopting all necessary measures. Employers must assess the risks present at each workplace, including consideration of the existing or expected working conditions and the individual employee carrying out the work. The assessment should identify the hazardous elements, the employees exposed and the magnitude of the risks.

An occupational risk prevention plan is the tool through which a company's health and safety preventive activity is integrated into its general management system, establishing the occupational risk prevention policy. The plan must be reflected in a document that will be kept at the disposal of the labor authority, the health authorities, and the employees' representatives.





Is there a requirement for an employer to issue any form of non-discrimination policies? (such as gender equality policies, equal employment opportunities, diversity, and inclusion policies, etc.)

In order to respect equal treatment and opportunities in the workplace, companies must adopt, after prior negotiation, measures aimed at avoiding any type of discrimination between women and men in the workplace, as well as promoting working conditions that prevent sexual harassment and harassment based on sex. Employers must also establish specific procedures for the prevention of such harassment and for dealing with any complaints or claims that may be made by those who have been subjected to it. Companies with 50 or more employees are under an obligation to draw up and implement an equality plan, with the scope and content stipulated by law.

Is there a requirement to provide employees with training designed to combat discrimination and harassment?

Employers should ensure that they have a suitable protocol for prevention and action against sexual and/or gender-based harassment.

Is there a requirement to have a data protection policy?

Yes. In the case of employees, trainees, and candidates, it is mandatory to have a privacy policy that regulates the processing of data of such persons.

Is it mandatory for employers to have a Child Protection Policy (CPP)? Are employees obliged to provide training on CPP to its employees?

To ensure the effective protection of minors regarding occupational hazards, employers must consider that children are a particularly sensitive group and therefore specific measures must be taken to protect their health and safety. Employers must consider all risks, procedures and working conditions that could negatively affect the health of minors due to their lack of experience, their immaturity to assess existing or potential risks and their incomplete development.

Employers have a responsibility to: (i) review the risk assessment to check whether there are any sources of harm or tasks identified as dangerous; (ii) take the necessary measures to ensure that young employees are not exposed to such risks; (iii) inform the employees and their parents or guardians of the possible risks and the measures taken to protect their health and safety; and (iv) report the entity contracted to carry out health surveillance about the employment of the young workers so that they can evaluate the need to adopt additional preventive and protective measures.

4 Tax

Which taxes are mandatory for employers to pay and deduct on behalf of their employees?

Employers must pay a Personal Income Tax Withholding to the tax authorities. This is a payment on account of the tax liability that the employee will have to pay in their Personal Income Tax.

Are all employee taxes deducted from the salary that the employer pays or is there a requirement for employees to pay certain taxes directly?

Employees resident for tax purposes in Spain must file their personal income tax return, declaring their worldwide income. Employers withhold a percentage of the employee's gross salary as a payment on account of the employee's relevant income tax.





5 Remote work

Are employers required to have a registered legal entity in the jurisdiction in order to employ employees in the jurisdiction?

Non-EU foreign nationals may apply for residence for international teleworking in order to carry out a remote work or professional activity for companies located outside the national territory, through the exclusive use of computer, telematic and telecommunication means and systems.

There are certain requirements: (i) accreditation of being graduates or postgraduates from universities of recognized prestige, vocational training and business schools or with at least three years' professional experience; (ii) existence of real and continuous activity on the part of the company with which the applicant contracts; (iii) documentation accrediting that the work or professional relationship can be carried out remotely; and (iv) proof that the employment or professional relationship between the applicant and the employee has existed for at least three months, as well as documents accrediting the terms and conditions of the remote activity.

When the applicant is outside Spain, a permit will be issued to reside and work throughout the national territory. The duration of the permit is 1 year, unless the period of work is shorter, in which case the visa will have the same duration. After the year has elapsed, you must apply for a residence authorization.

When the applicant is legally in Spain, a 3-year permit will be granted to reside and work throughout the national territory.

Are employers required to provide any form of physical working space for employees working in your country?

No. This matter is regulated in each applicable Collective Bargaining Agreement and in the respective employment contract.

Please provide general instructions for employers on what to check if the employer has remote employees, including concerning employee tax liabilities.

The employer tax liabilities will be the same whether employees are working in the physical employer premises or remotely in Spain. When the employer provides the employee with a fixed amount of money for remote work expenses, this income will be considered as monetary income and therefore the employer will be obliged to withhold the corresponding withholding tax.

In Spain, remote employees have the right to adequate health and safety protection. The risk assessment and the planning of preventive activity in remote work must consider the risks characteristic of this type of work, paying particular attention to psychosocial, ergonomic and organizational factors and the accessibility of the actual working environment. In particular, the distribution of the working day, availability times and the guarantee of breaks and disconnections during the working day must be considered.

In the event that employees are working remotely from another jurisdiction, an employer will need to assess the tax obligations that will arise in the country in which the employee is working. Whilst each jurisdiction will have different obligations in terms of the payment and deduction of taxes, the following factors are likely to be relevant: where is the employee living and working, does the employee split their time working in different jurisdictions? What nationality is the employee? Where do they have tax residence? Where is the company for which they are working based? What are the employee's functions?





6 What to do when things go wrong

Dispute resolution

Do employees (including volunteers) need to go through any form of dispute resolution before bringing a claim to a court or tribunal?

Yes. A conciliation meeting is a preliminary requirement for processing any dismissal procedure before the Social Court. Proceedings that require a prior administrative claim are exempt from this requirement.

Resignation

What grounds do employees have for resignation?

Voluntary resignation of an employee is a legal ground for termination of the employment contract. The resignation of the employee requires giving notice in accordance with any collective agreement or according to local custom.

Termination

What grounds do employers have for the termination of employment contracts?

An employment contract cannot be terminated at will. It may, however, be terminated for the following reasons:

- Mutual agreement.
- 'Fair' reasons identified in the employment contract, such as serious and willful non-compliance with duties.
- Agreed expiry date.
- The employee's resignation.
- Death or permanent disability of the employee.
- Retirement of the employee.
- Death, retirement, or permanent disability of the employer.
- Force majeure event making the rendering of services permanently impossible.
- Collective dismissal based on economic, technical, organizational or production reasons.
- Resignation of the employee following fundamental breach of contract by the employer.
- Disciplinary dismissal of the employee.
- Individual dismissal for objective reasons.
- By decision of a female employee who is forced to leave their job permanently because they are a victim of domestic violence; and
- During a probationary period if the employment conditions are not fulfilled.





Where there is no fair reason for the termination of employment, the dismissal will be deemed unfair. The employer may then choose between reinstating the employee or paying the employee the following compensation:

- *For employees hired after 11 February 2012:* 33 days of salary per year of service with a maximum limit of 24 monthly salaries.
- *For employees hired before 11 February 2012:* 45 days of salary per year of service for service accrued up to and including 11 February 2012.

How do employers have to document the termination of an employment contract?

The procedure which must be followed on termination depends on the nature of the dismissal.

- **Collective dismissals:** Where a certain number of dismissals (the thresholds depending on the number of workers within the company e.g. 10 workers in companies with less than 100 employees) take effect within a 90 day period, a period of negotiation must take place with the employees' representatives for up to 30 calendar days (15 in companies with fewer than 50 employees).

If there is an agreement reached with the employees' representatives upon termination of the consultation period, then it is presumed that the collective redundancy is justified.

If no agreement is reached, then the company can still carry out the dismissals. It will have to notify the decision to the employees' representatives and to the Labor Authority. These dismissals will then be carried out following the procedure for individual dismissals, that is, (i) delivering a dismissal letter; (ii) with a prior notice of 15 days (or payment in lieu); and (iii) simultaneous payment of the severance compensation of 20 days' salary per year of service.

- **Termination of employment on objective grounds:** An employee's contract can be terminated due to: (i) the employee's known or observed ineptitude following appointment; (ii) the employee's failure to adapt to technical modifications to their role; (iii) an objectively accredited need to eliminate the employee's post for economical, technical, organizational, or productive reasons; and (iv) absences from work.

When the dismissal is based on the above grounds, a termination letter referring to the ground relied on must be sent to the employee.

When the termination letter is delivered, the employer must give the employee 20 days' salary per year of service (up to a maximum of 12 months' salary). The employee must also be given 15 days' notice, which can be substituted by a payment in lieu.

If a court finds that the reason alleged in the termination letter is not fair, the dismissal is declared as unfair, and the company must pay the compensation set out above for unfair dismissal.

- **Termination for disciplinary reasons:** If the employee commits an act set out in Article 54 of the Spanish Workers' Statute (for example, disloyalty or disobeying the employer's orders), the employer can terminate the employment without any right to compensation and without giving notice (unless the applicable collective bargaining procedure states differently).





The dismissal shall be notified in writing to the employee, stating the facts on which it is based and the date on which it is to take effect. Other formal requirements may be laid down in the applicable collective agreement. If a court finds the termination unfair, the employer must pay the compensation set out above for unfair dismissal.

- **Expiry of a fixed-term contract:** If the provision of labor continues after the contract has come to its agreed end, the contract is deemed to continue for an indefinite period. If a fixed-term contract is for more than one year, the party proposing to terminate must give the other party a minimum of 15 days' notice. On expiry of the contract, the employee is entitled to receive compensation of 12 days' salary per year of service (unless stated otherwise in the applicable Collective Bargaining Agreement).

What is the responsibility of employers for damages incurred by an employee's actions within his/her work?

Employers can be held vicariously liable for acts (such as negligence) carried out by an employee in the course of their employment.





b. Independent contractors/consultants*

Section Contents

1 Contracts.....	18
2 Conditions of work for consultants	21
3 Safe and supportive work environment.....	24
4 Remote work.....	24
5 What to do when things go wrong.....	24

Definition of an independent contractor/consultant

Spanish employment law distinguishes between employees and those who are self-employed, that is, independent contractors.

The typical elements of an employment relationship are: (i) the subordination of the employee to the supervisory, managerial, and disciplinary powers of the employer; (ii) the payment to the employee of a fixed monthly wage, regardless of the results of the working activity; (iii) the lack of assumption of risk by the employee.

An independent contractor, on the other hand, is in business on their own account and is free to organize their work as they choose. They are not bound by restrictions on working hours and the employer's terms and conditions such as disciplinary rules do not apply. The consideration paid to an independent contractor for their services is usually based on the nature of the services and not the time taken to complete them.

It is a commercial relationship and the regulations in labor law do not therefore apply.

**The term consultant will be used to also refer to independent contractors, or any other term that would mean a person that provides goods or services under a written contract or a verbal agreement but does not work to meet the definition of employee.*

1 Contracts

What types of independent contractor/consultant agreements are available? Are there any specific agreements available to NGOs?

In Spain, independent contractor/consultant agreements are typically governed by the Civil Code and the Commercial Code. The two most common types are:

- Commercial Service Agreement (*Contrato Mercantil de Prestación de Servicios*): This is a commercial contract where one party (the independent contractor/consultant) agrees to provide specific services to another party (the client). It is important to note that this type of agreement does not create an employment relationship, and the contractor is considered self-employed for tax and social security purposes.
- Service Lease Agreement (*Contrato de Arrendamiento de Servicios*): This type of agreement is similar to the Commercial Service Agreement, but it is regulated under the Spanish Civil Code





as a contract of lease of services. It entails the provision of services by an independent contractor to a client in exchange for compensation.

Regarding specific agreements available to NGOs (Non-Governmental Organizations), there are no exclusive contract types tailored specifically for NGOs under Spanish law, NGOs can enter into the same types of independent contractor/consultant agreements mentioned above. However, it is essential for NGOs to ensure that the contracts they use comply with any specific regulations or requirements applicable to their sector or field of activity.

What are the main elements of consultant agreements?

The main elements of a consultant agreement, also known as an independent contractor agreement, typically include the following:

- **Identification of the Parties:** Clearly state the names and contact information of both parties involved in the agreement. This includes the consultant (independent contractor) and the client (the individual or company seeking consulting services).
- **Scope of Work:** Define in detail the specific services the consultant will provide. This section should outline the tasks, deliverables, milestones, and any other relevant aspects of the project.
- **Compensation:** Specify the payment terms, including the consultant's fees, the method and frequency of payment, and any additional expenses or reimbursements that the client will cover.
- **Term and Termination:** Indicate the duration of the agreement. Additionally, include provisions on how either party can terminate the agreement and the notice period required.
- **Independent Contractor Status:** Clarify that the consultant is an independent contractor and not an employee of the client. This section is essential to avoid any potential misclassification issues and to establish that the consultant is responsible for their own taxes and benefits.
- **Confidentiality and Non-Disclosure:** Include provisions to protect any sensitive or proprietary information that may be shared during the consulting engagement. This ensures that the consultant maintains confidentiality and does not disclose confidential information to third parties.
- **Intellectual Property Rights:** Specify how intellectual property rights will be handled.
- **Indemnification:** Include clauses stating that the consultant will indemnify the client against any claims or liabilities arising from the consultant's work, including any third-party claims related to the project.
- **Governing Law and Jurisdiction:** Identify the laws of the jurisdiction that will govern the agreement and the location where any potential disputes will be resolved.
- **Notices:** Provide information on how official communications or notices will be sent and received between the parties.
- **Amendments:** Clarify that any modifications to the agreement must be made in writing and signed by both parties.





- **Entire Agreement:** Include a provision stating that the written contract represents the entire agreement between the parties, superseding any prior oral or written agreements.

It's essential to draft the agreement carefully and, if necessary, seek legal advice to ensure that it complies with all relevant laws and regulations.

Is it possible to have probation periods for independent contractors/consultants? If yes, for how long?

In Spain, independent contractors or consultants are typically engaged through specific contracts, governed by different rules than employment contracts, and the concept of a “probation period” as commonly understood in the context of employment relationships may not directly apply.

For independent contractor agreements, there is no specific legal provision for a probationary period in the same way as for employees. Independent contractors are considered self-employed, and their contracts are generally based on the specific project or service they are hired to perform.

However, the consultant agreement could include provisions related to a trial or evaluation period. During this period, the client and the consultant can assess each other's suitability for the project and collaboration.

The duration of this evaluation period can vary and should be agreed upon by both parties. It could be a few days, weeks, or even a specific milestone in the project. If either party finds that the collaboration is not working as expected during this evaluation period, they could agree to terminate the agreement without the need for the full notice period.

Is it possible to have a fixed term consultation/independent contractor agreement? Are there any restrictions around fixed term consultant/independent contractor agreements?

In Spain, independent contractors or consultants are typically engaged through open-ended or indefinite contracts, without specifying a fixed end date. The use of fixed-term contracts is primarily reserved for employment relationships.

Do independent contractor/consultant agreements have to be in writing? Are there any signatory requirements? For example, could they be signed in-person or electronically, etc.)?

Independent contractor/consultant agreements in Spain do not need to be in a specific written format, but it is highly recommended to have them in writing to avoid misunderstandings and to provide clarity on the terms and conditions of the engagement.

Regarding signatory requirements, both parties involved in the agreement (the contractor and the client) must sign the contract. The signatures can be obtained in person, through electronic signatures (it is advisable to verify if there are any industry-specific or contractual requirements that may impose conditions on the use of electronic signatures), or even scanned copies of the signed agreement sent via email.

Do all types of independent contractors/consultants have to be under contract in order to be able to work?

Under Spanish law, not all types of independent contractors/consultants are required to have a written contract to be able to work. While it is highly advisable and common practice to have a





written contract in place for independent contractor engagements, it is not a legal requirement for the validity of the contractor's work.

Independent contractors can be engaged verbally or through implied contracts, and their services can still be legally binding. However, without a written contract, it may be challenging to prove the specific terms and conditions of the engagement in case of any disputes or disagreements that may arise.

Can you provide a simple template of the agreements mentioned above?

N/A.

Is there an obligation to run a criminal record check to the extent that any independent contractor will be working with children or vulnerable people?

The law generally prohibits processing information on background checks/reference checks/sanctions unless falling within one of the limited exemptions, which are:

- The Public Administration, the Police or the army. In such professions, good citizenship must be accredited by the provision of a negative criminal record certificate.
- Companies that have the status of "obliged subject" under the money laundering and terrorist financing regime in force in Spain (generally applies to banks).
- Insurance agencies and brokers.
- Professionals working with minors.
- Casinos: Employees, partners, representatives and/or managers must not have a criminal record.

2 Conditions of work for consultants

Are there any minimum age requirements for an individual to work under a consultant/independent contractor agreement?

In Spain, there are no specific minimum age requirements for individuals to work under a consultant/independent contractor agreement. The concept of minimum age requirements typically applies to traditional employment relationships where individuals are considered employees.

However, for individuals under the age of 18, there are restrictions on certain types of work and specific working conditions to protect young employees and ensure their safety and well-being. These restrictions are primarily governed by the Spanish Child Protection Act (Ley Orgánica 3/2015, de 30 de marzo, de control de la actividad económica y financiera del Estado sobre los secretos protegidos por el secreto profesional en el ámbito del trabajo).

The law prohibits young employees under the age of 16 from engaging in any work, except for limited exceptions, such as artistic or cultural performances, and certain types of work during school holidays with authorization from the competent authorities. For young employees between the ages of 16 and 18, there are additional limitations on the types of work, working hours, and conditions to safeguard their health and education.

However, these restrictions primarily apply to employment relationships, and individuals engaged as independent contractors are not typically subject to these specific provisions. It's important to note that while there are no minimum age requirements for independent contractors, there may be





other legal considerations, such as obtaining parental consent or adhering to any applicable laws or regulations related to child labor or protection of minors.

As always, it is advisable to seek legal counsel or consult with relevant authorities to ensure compliance with all labor and employment laws when engaging individuals as independent contractors, especially when dealing with young employees or minors.

Does a consultant/independent contractor need to obtain a license or any other permission in order to work?

No, unless the nature of the activity or work requires it.

It is however compulsory for individuals to register with the Special Regime for Self-Employed Workers (RETA) when they are over 18 years of age and they plan to carry out an economic activity on a regular basis without an employment contract that links the individual to a company.

Payment

Are there any minimum pay requirements for consultants/independent contractors?

The consideration paid to an independent contractor for their services is usually based on the nature of the services and not the time taken to complete them.

Are there any exceptions in minimum wages for young persons or people with disabilities?

Please see [above](#).

Is there any requirement to provide statutory/paid leave to consultants for statutory holidays?

Independent contractors/consultants do not have the rights and duties of an employment relationship. To this effect, rights such as holidays, minimum wage, daily working hours are not enforceable.

Is there any requirement to pay annual leave to consultant/independent contractors? If so, how is this compensated, if at all?

No. Please see [above](#).

Is there an obligation to provide consultant/independent contractors with overtime? How is this compensated if required?

Please see [above](#).

Are consultants entitled to an end-of-year payment?

No. Please see [above](#).

Are consultants entitled to a final payment when the contract is terminated?

No. Please see [above](#).

Working hours

Are consultants entitled to any type of leave, whether paid or unpaid?





An independent contractor is not bound by restrictions on working hours and the employer's terms and conditions such as disciplinary rules do not apply.

Social security

Does the end user engager need to make any social security contributions on behalf of a consultant/independent contractor? Are independent contractors entitled to health insurance from the end user engager?

The contractor pays its own taxes and Social Security contributions, such contractors are enrolled in a different social security contribution scheme, specific to that person's field.

From the tax point of view, the contractor must be registered as self-employed (freelance) and consequently must be registered for the Business Activities Tax (BAT) and VAT.

Are independent contractors/consultants entitled to unemployment insurance/benefits after termination of their independent contractor/consultancy agreement from the end user engager?

No. Please see [above](#).

Are independent contractors/consultants entitled to sick leave from the end user engager? If yes, for how long? How many days have to be paid?

No. Please see [above](#).

Are independent contractors/consultants entitled to maternity leave from the end user engager? If yes, for how long? How many days/months have to be paid?

No. Please see [above](#).

Are independent contractors/consultants entitled to paternity leave from the end user engager? If yes, for how long? How many days/months should be paid?

No. Please see [above](#).

Are employers obliged to cover work-place injuries for independent contractors/consultants?

In Spain, employers are generally not obliged to cover workplace injuries for independent contractors/consultants. The legal responsibility for workplace injuries and occupational health and safety typically falls on the employer in an employment relationship. Since independent contractors are not considered employees, they are responsible for their own health and safety while performing their contracted services.

Independent contractors are self-employed individuals, and as such, they are expected to have their own insurance coverage and assume liability for any injuries or accidents that may occur while they are working. They are not entitled to the same benefits and protections as employees, such as employees' compensation or social security benefits related to workplace injuries.

When engaging independent contractors, it is essential for both parties to clarify the liability and insurance aspects in the consultant/independent contractor agreement. The agreement should include provisions that state the contractor's responsibility for their own insurance and indemnify the client (employer) against any claims arising from the contractor's work.





It is advisable to seek legal counsel or consult with relevant authorities to understand the specific legal requirements and obligations related to independent contractor engagements and insurance coverage in Spain.

Are independent contractors/consultants entitled to retirement benefits from the end user? If yes, what benefits?

No. Please see [above](#).

3 Safe and supportive work environment

Are there any differences in terms of the regime that applies to employees?

No. There is no difference in terms of this regime.

4 Remote work

Are end user engagers required to have a registered legal entity in the jurisdiction in order to hire independent contractors/consultants there?

In Spain, end user engagers, also known as clients or companies that hire independent contractors or consultants, are not specifically required to have a registered legal entity in the jurisdiction to engage independent contractors. However, having a registered legal entity is the most common way for companies to operate and conduct business in Spain.

When engaging independent contractors or consultants, companies in Spain can do so as a registered legal entity, such as a limited liability company (Sociedad de Responsabilidad Limitada - S.L.) or a public limited company (Sociedad Anónima - S.A.). This legal entity provides a formal structure and legal personality that can enter into contracts and conduct business activities.

Using a registered legal entity offers certain benefits, such as limited liability protection for the company's owners, credibility with clients and contractors, and compliance with legal and tax obligations.

However, it's important to note that in Spain, companies can also operate as self-employed individuals or sole traders (*autónomos*). As a self-employed individual, an end user engager can also hire independent contractors or consultants. In this case, the self-employed individual takes on personal liability for the contracts and business activities.

Engaging legal counsel or consulting with a business advisor can help companies determine the most appropriate legal structure based on their specific needs and circumstances when hiring independent contractors in Spain.

5 What to do when things go wrong

Resignation

Do consultants/independent contractors need a reason to terminate the contract or can they terminate it for any reason in accordance with the terms of the contract?

Contractors are not bound by obligations relating to the fairness of a dismissal or liabilities to make specific termination payments, and therefore in case of termination of the services contract they are not entitled to receive any compensation for dismissal (the contractor cannot be dismissed if they are not an employee)





Under Spanish law, if the contract specifically stipulates the conditions under which either party can terminate the agreement, the consultants or independent contractors can terminate the contract in accordance with those terms without the need to provide a specific reason. However, it is crucial to ensure that any termination adheres to the specific procedures and notice periods, if any, outlined in the contract.

Termination of agreement

What grounds do end user engagers have for the termination of consultant agreements?

End user engagers, or the parties engaging the consultants' services, may have various grounds for terminating consultant agreements under Spanish law. The exact grounds for termination may be determined by the terms and conditions of the specific agreement between the parties.

Some common grounds for termination may include:

- **Breach of Contract:** If the consultant fails to fulfill their obligations as outlined in the agreement, such as delivering work on time or providing subpar services, the end user engager may have the right to terminate the contract.
- **Convenience:** In some cases, the contract may allow termination without cause, often referred to as termination for convenience. However, it is essential to review the contract's provisions regarding such terminations to ensure compliance with any notice requirements or indemnities.
- **Force Majeure:** If the consultant's ability to perform the contract is severely impacted by unforeseen events beyond their control (e.g., natural disasters, government actions, etc.), the contract may have a force majeure clause that allows for termination.
- **Mutual Agreement:** The agreement may also allow for termination by mutual agreement, where both parties consent to ending the contract.

It is crucial for both parties to adhere to the contract terms when considering termination, as failure to do so may result in potential legal disputes and liabilities.

What is the responsibility of the end user engagers for damages incurred by a consultant's actions within his/her work?

End user engagers can be held liable for acts carried out by an independent contractor / consultant in the course of their work.





c. Volunteers

Section Contents

1 Contracts.....	26
2 Conditions of employment	26
3 Safe and supportive work environment.....	27
4 Tax.....	28
5 What to do when things go wrong.....	28

Definition of a volunteer

The status of volunteers shall be granted to natural persons who freely and voluntarily decide to devote all or part of their time to activities of a solidarity nature, which are carried out freely, which do not require any financial compensation, and which are carried out through volunteer organizations.

1 Contracts

Are organizations required to sign any form of agreement with volunteers?

The relationship between the volunteer and the volunteer entity will always be established through the subscription of an incorporation agreement, which constitutes the main instrument of its definition and regulation.

This agreement will have the following minimum content: rights and duties corresponding to both parties; description of the duties, activities and time of dedication that the volunteer undertakes to carry out; the training required for the fulfilment of the functions assigned to the volunteers and, where appropriate, the itinerary to be followed to obtain it; duration of the commitment, as well as the causes and form of disengagement by both parties, which shall respect as much as possible the rights of the persons to whom the volunteer action is addressed and the best development of the volunteer programs; the system for settling conflicts between volunteers and the volunteer organization; change of assignment to the volunteer program or any other circumstance that modifies the initially agreed action regime.

2 Conditions of employment

Is there a minimum age requirement for volunteers?

Minors may volunteer if their best interests are respected. Those over 16 and under 18 years of age must have the consent of their parents, guardians or representatives and, for minors between 12 and 16 years of age, express written authorization will be required.

What type of volunteering work may a child undertake? Are there any restrictions around this?

Minors may engage in all kinds of voluntary activities, provided that an assessment has been made as to whether such activities are detrimental to their overall development and training. Once this assessment has been made, the minor will be granted the authorization required from their parents or legal representatives.





Payments and reimbursement

Are organizations allowed to pay stipends to volunteers?

Volunteer actions are carried out without financial or material consideration, without prejudice to the payment of reimbursable expenses incurred by the volunteers in the performance of the volunteer action.

Are organizations allowed to reimburse volunteers? If yes, for what expenses (such as transportation, food, etc.).

The volunteer's incorporation agreement with the volunteer entity must include details of the system of reimbursable expenses to be paid to the volunteers, in accordance with the volunteer action to be carried out.

Working hours

Are there any obligations around how many hours volunteers can work?

No required number of volunteer hours should be specified, as it is a voluntary service for which neither a minimum nor a maximum time commitment is required.

Are volunteers entitled to any type of leave?

No.

Social security

Are organizations obliged to pay any social security contributions on behalf of their volunteers?

No, Spanish labor regulations exclude volunteer activities from being considered work and from paying Social Security contributions.

Are organizations obliged to provide health insurance to volunteers?

Volunteer organizations are obliged to take out an insurance policy or other financial guarantee, appropriate to the characteristics and circumstances of the activity carried out by the volunteers, covering them against the risks of accident and illness arising directly from the volunteer activity.

Are organizations liable for absences of volunteers due to work-place injuries?

Due to the nature of the relationship with the volunteer organization, the volunteer is not entitled to sick/leave pay. Insurance taken out by the organization to include volunteers may help to pay compensation if a volunteer is injured or becomes ill because of the volunteering activities.

3 Safe and supportive work environment

Are there any differences in terms of the regime that applies to employees?

No. The rights of volunteers include the right to be covered, at the expense of the volunteer organization, against the risks of accident and illness arising directly from the exercise of the voluntary action and civil liability in cases where this is required by sectoral legislation, through insurance or another financial guarantee.





4 Tax

Are organizations obliged to pay taxes if they pay their volunteers stipends? If yes, what types of taxes are mandatory to pay?

There will be no tax liability as long as the volunteers can prove that the payment is strictly to offset volunteer expenses. In contrast, if the organization pays an amount to the volunteers so that they can freely decide how to spend it, this would be a taxable income that would be subject to withholding tax.

5 What to do when things go wrong

What grounds do organizations have for the termination of volunteer agreements/arrangements?

Volunteer organizations may suspend the activity of volunteers when the quality or aims of the organization's programs are seriously jeopardized because of them, or when they seriously infringe the incorporation agreement.

What is the responsibility of organizations for damages incurred by a volunteer's actions within his/her work?

Volunteering entities shall be liable to third parties for damages caused by volunteers participating in their programs, because of carrying out volunteering activities and may subscribe to an insurance policy or other financial guarantee covering civil liability, which shall be compulsory when required by sectorial regulations.





d. Non-citizen employees and consultants, including refugees and others forcibly displaced

Section Contents

1 Status and the right to work	29
2 Contracts.....	29
3 Conditions of employment	30
4 Safe and supportive work environment.....	30
5 What to do when things go wrong?	30

1 Status and the right to work

Are employers obliged to secure legal status for their employees or consultants if they are non-citizens? (such as refugee status, humanitarian visas, visas for trafficking survivors, other recognized protection statuses, etc.)

Yes, it is mandatory for all employers to verify the right to work of non-citizen employees or consultants before hiring.

Are employers obliged to secure work permits for their employees or consultants?

It is mandatory to confirm that the individual has right to work and holds a working permit. If an employer wishes to hire a non-citizen that does not hold a working permit, the employer will need to secure and sponsor the working permit before hiring. If the employer cannot secure a working permit for the candidate, they cannot be hired.

Is it always necessary to obtain a work permit?

Yes. Some residence permits include the right to work, but the employer must verify this and confirm the type of permit that the candidate holds and if it is a valid right to work.

Can asylum-seekers and other persons forcibly displaced access the right to work if they do not have refugee status or other recognized protection statuses?

Yes, asylum applicants and other international protection status applicants have the right to work after 6 months of the application of asylum and while waiting for the answer and resolution of the application.

2 Contracts

Are employment contracts or consultant agreements for non-citizens different to those for citizens?

No, normally they are the same, except that a contract for non-citizens may contain an additional clause establishing that in the case the individual loses the right to work, the employment contract or consultant agreement can be terminated.





3 Conditions of employment

Does national law regulate the quotas for the number of non-citizens within one organization?

No.

Are employers obliged to report about employed non-citizens?

No. Employers should comply with the labor formalities and reports as with any other employee.

Are there any other differences in conditions of employment for non-citizens and citizens?

No.

Are there any specific employment terms that apply to citizens but not apply to non-citizens?

No, but it is necessary to check the validity of the working permits and ask for renewal proof when the permit expires.

4 Safe and supportive work environment

Are there any differences in a safe and supportive work environment approach for non-citizens? If yes, please elaborate here.

No.

Does the employer have additional obligations for non-citizens?

No.

5 What to do when things go wrong?

Is the process of termination of an employment contract for non-citizens different than for citizens? If yes, please explain here.

No, it is the same. However, the employer may notify the immigration authorities about the termination, and this could result in the cancelation of the working permit.

Is the process of resignation for non-citizens different than for citizens? If yes, please explain here.

No.

Are non-citizens entitled to the equal protection of employment laws in the event of employment-related disputes?

Yes.





For more information please visit pilnet.org