

## **Spanish immigration act 2009**

Law 4 / 2000 of 11 January, RIGHTS AND FREEDOMS OF FOREIGNERS IN SPAIN AND SOCIAL INTEGRATION (BOE no. 10, 12 January), in the version given by the Organic Law 8 / 2000 of 22 DECEMBER (BOE no. 307, 23 December), by Organic Law 11/2003, of 29 September (BOE no. 234, 30 September), by Organic Law 14/2003 of 20 November (BOE no. 279, 21 November) and by Organic Law 2 / 2009, of 11 December (BOE No. 299 of December 12).

### **EXPLANATORY STATEMENT**

(Organic Law 8 / 2000 of 22 December)

#### **I**

On 12 January 2000 was published in the "Gazette" Organic Law 4 / 2000, dated 11 January on the rights and freedoms of foreigners in Spain and their social integration, have been detected during its term aspects in that the reality of migration than the standard estimates.

At the same time, our rules should conform with the commitments undertaken by Spain in particular with the conclusions adopted by the Heads of State and Government of Member States of the European Union on 16 and 17 October 1999 in Tampere on creating an area of freedom, security and justice.

The reform of the Organic Law 4 / 2000 part of the situation and characteristics of the foreign population in Spain, not only today but in the face of the coming years, regulated immigration from considering it as a structural fact which has made Spain a country of destination of migratory flows, their situation, also a transit point to other states, which border controls on routes from ours have been eliminated or substantially reduced.

Moreover, this legislation is part of a comprehensive and coordinated approach in the treatment of migration in Spain, which provides a broad view from all aspects related to it, and, therefore, not only from a unique perspective, as you can be the control of flows, the integration of foreign residents, or the development of countries of origin but all of them together.

#### **II**

This Act contains three articles, concentrating first on the amendment of articles of Law No. 4 / 2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration, while amending the second article single additional provision, adding a new additional provision, and the third fits the parts and chapters of the same to the reform.

Organic Law 4 / 2000 of January 11, retains its structure is articulated around a Preliminary Title devoted to general provisions and where is finalized the scope of it, four titles, and closes with the appropriate additions, transitional derogations and final. Title I contains the articles on "Rights and freedoms of foreigners", Part II on "Legal Status of Foreigners", Title III, "Offenses relating to aliens and penalty system" 'and finally Part IV on "Coordination of public authorities on immigration.

### **III**

The modification of the preliminary title is merely a grammatical improvement in the definition of foreigners, preserving the exclusions from the scope of the law which established in the Organic Law 4 / 2000 of January 11.

### **IV**

Concerning the modification of Title 1, the content is especially important, has been pursued to meet the constitutional mandate of Article 13 which states that foreigners enjoy in Spain the public freedoms guaranteed by Title I of the same, in the terms established Treaties and Law and the relevant jurisprudence of the Constitutional Court (Constitutional Court Judgments 107/1984, of 23 November; 99/1985 of 30 September; 115/1987 of 7 July, etc.). . He has combined this constitutional mandate with the international commitments undertaken by Spain, especially as a member of the European Union.

The Heads of State and Government of the Member States of the European Union agreed in October 1999 in Tampere, which should be guaranteed fair treatment of third country nationals legally residing in the territory of its Member States. An integration policy should aim at granting these residents rights and obligations comparable to those of EU citizens and to enhance non-discrimination in economic, social and cultural development of measures against racism and xenophobia.

The amendments to this Title I of the Act concern highlighted by the foreigners to recognize the maximum number of rights and freedoms. In paragraph 1 of Article 3 provides that, as an interpretative criterion is generally understood that foreigners shall exercise the rights under this Act on an equal footing with Spanish.

### **V**

With respect to Title II of the Organic Law on the legal status of foreigners situations, the premise that informed the changes made on its articles has been to establish a system of authorizations situations and encourage foreigners to enter and reside in our country within the framework of regular versus irregular entry and stay.

This title has been adapted to the provisions concerning the entry visa regime,

stay and extension of stay in the Convention Implementing the Schengen Agreement, as Spain is part of this Agreement.

It has remained the status of temporary residence and permanent residence of foreigners, introducing the possibility of granting a temporary residence permit on humanitarian grounds or where there exceptional circumstances.

It distinguishes between the situation of stateless persons and all those foreigners who may not be documented by any country wishing to obtain documentation in Spain as proof.

Regarding the regulation of work authorization that allows foreigners to perform lucrative activities in Spain, self-employed persons, clarifying the difference between the authorization and the mere legal residence status and it is also remarkable given the treatment in this new text to the quota of foreign workers, establishing some exceptions to it in certain circumstances based on the situation of foreign workers. In short, it articulates a documentary regime which provides that an alien who wishes to work in our country who can do it with all the guarantees and rights.

Finally, it has been modified to conform to current regulations on fees, Chapter IV of this title, on fees for administrative permits. The text of the Organic Law 4 / 2000 referred only to fees for administrative authorization to work in Spain.

## **VI**

In Title III, relating to infringements on foreigners and its penalty system, changes have been made which can be summarized under two headings: measures for combating illegal immigration and improving mechanisms to prevent illegal immigration.

On the first point, it is necessary to highlight two distinct issues, such as sanctions to carriers and the sanctions that are directed against those who organize networks for human trafficking.

The reform includes the contents of the Basic Law in accordance with international commitments signed by Spain, as a member of Schengen, sanctions against carriers who transport aliens to the Spanish territory without verifying that they meet the requirements for entry.

With regard to targeted sanctions against human trafficking, introducing measures to further the fight against trafficking and exploitation of human beings, allowing control of certain activities related to it or facilitating the circumvention of the means used by traffickers.

Moreover, assuming that a state law is necessary to provide the tools to enforce compliance with the rules, in this case, those governing the entry and stay in Spanish territory, has been introduced as an offense punishable by expulsion of

illegally staying in the Spanish territory, pretending thereby increasing the capacity of state action in terms of controlling illegal immigration, the level of other Member States of the European Union, which have in their legal systems with the possibility of expelling foreigners who are in this situation, an approach that is reflected in the conclusions of the Tampere European Council.

## **VII**

Finally, with regard to Title IV of the Organic Law on the coordination of public authorities on immigration, has revised the definition of the Forum for the Social Integration of Immigrants, focusing on the role of consultation, information and advice on this body towards the integration of immigrants are in Spain, one of the main objectives of the Law

### **EXPLANATORY STATEMENT**

(Organic Law 14/2003 of 20 November)

## **I**

On 23 December 2000 was published in the "Gazette" Organic Law 8 / 2000 of 22 December, to reform the Organic Law 4 / 2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration, thereby giving the answer to the needs presented to address immigration as a structural fact which has made Spain a country of destination of migration flows.

The adoption of that Act 8 / 2000, also answered the need to incorporate the international commitments assumed by Spain in this matter. In particular, it was necessary to reflect the principles adopted by the Heads of State and Government of member countries of the European Union at its meeting on 16 and 17 October 1999 in Tampere on the creation of an area of freedom, security and justice and the Schengen acquis on entry regime, conditions for issuing visas, adjustment of the stay of foreigners, and liability and penalties on carriers.

During the term of the Organic Law 8 / 2000, reform of the Organic Law 4 / 2000, have witnessed a number of circumstances which, taken together, have raised the need to adapt to the evolving former a mutable as the migratory phenomenon . Thus, in addition to the considerable increase occurred in the number of foreign residents in Spain

In recent years, has also noticed a change in the ways in which the act occurs immigration that our country is the host, which has generated a better understanding of this phenomenon to mainstream policy instruments that enable better and easier management of migration flows, providing the means through which immigration has developed friendly legal channels and strengthening mechanisms to influence the fight against illegal immigration, organized and increasingly more resources to achieving its objectives.

These circumstances, coupled with the need, first, to bring domestic legislation in this regard to decisions over the past two years have been taken within the

European Union and, secondly, to incorporate certain technical considerations made by the Supreme Court has been advised to review various aspects of the legislation on foreigners and immigration.

## II

The objectives pursued with the reform of existing legislation are:

1. Improved management by simplifying administrative procedures, and legal status of the situations of foreigners in Spain as well as determining the types of visas and the effects thereof, and the fight against drug fraudulent management of administrative procedures in this area. All this in order to promote legal immigration and integration of foreigners, thus gaining access to and reside in our territory.

2. The strengthening and, ultimately, improving the means and instruments of penalties under the Organic Law 4 / 2000, as amended by Organic Law 8 / 2000, to combat illegal immigration and human trafficking. In this sense, power is also working with transport companies in order to obtain more information on persons being transferred to the Spanish territory. Such information will improve the strengthening of the tools available to ensure security in international transport, especially air.

Also, reinforcing the procedures for reimbursement of aliens entering our country illegally, and extend the conducts typified as serious violations of all persons who, for profit, induce, encourage, promote, or facilitate illegal immigration people in transit or destined for Spain, or remaining in our country.

3. The incorporation of the provisions adopted by the European Union on enforceability of the fees for issuing visas as well as sanctions to carriers and mutual recognition of expulsion orders to prevent those aliens who are subject on them at any State of the Union may try to avoid moving to another state. With regard to fees for issuing visas, incorporates the provisions contained in the Council Decision of 20 December 2001 amending Part VII and Annex 12 of the Common Consular Instructions and Annex 14 to ) of the Common Manual The legislative amendments are intended to bring the Spanish domestic law to collect Council decision and change the subject of the event giving rise to the levy, if the visa becomes the processing of the application it. As regards transport, incorporating the estimates of Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention Implementing the Schengen Agreement.

Regarding the implementation of expulsion orders issued by other Member States of the European Union, fits our regulation with the provisions of Directive 2001/40/EC of 28 May 2001 concerning the mutual recognition of decisions in the expulsion of third country nationals. Also incorporating Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorized entry, transit and residence, to which end is perfected one type of sanction under the law.

4. The additions to the text of the Organic Law 4 / 2000, as amended by Organic Law 8 / 2000, arising from the Supreme Court decision of 23 March 2003 relating to the necessary regulation, the Organization Act, certain provisions Regulations implementing the Organic Law 4 / 2000, approved by Royal Decree 864/2001 of 20 July.

### **III**

This Act contains four articles, a single additional provision, two transitional provisions will only repeal provision and three final provisions. The first article, the most extensive, incorporating the changes that were introduced in certain provisions of the Organic Law 4 / 2000, as amended by Organic Law 8 / 2000.

The second article is limited to collecting a change in the repealing one of the aforementioned Act 8 / 2000.

The third article amending the Law 7/1985 of 2 April, Regulating the bases of local government for the purpose of perfecting the information contained in the Municipal concerning foreigners registered. The fourth article introduces a new additional provision of Law 30/1992 of 26 November on the Legal Regime of Public Administrations and Common Administrative Procedure, in order to incorporate into the text of this law, in the Express, a reference to the Organic Law 4 / 2000, so that the procedures are regulated in this procedural peculiarities apply in the same novelty are introduced.

The fifth article introduces a modification in Law 3 / 1991 of 10 January, unfair competition, unfair considering hiring aliens without work authorization obtained under the provisions of the legislation on aliens.

### **IV**

The amendments contained catalog do not concern the rights or the structure of the Organic Law 4 / 2000, reformed by Organic Law 8 / 2000. First, an amendment was introduced to establish the obligation to provide a foreigner's identity card as documentary proof of authorization to reside, thus adapting our policy to Regulation No 1030/2002, the Council of 13 June 2002. In terms of family reunification, to prevent fraud in the "chain groupings, has been incorporated into the Basic Law, as a precondition for the exercise of that right by a resident who was under a prior reunification, which he holds a residence permit independent, as well as certain specific requirements for the practice of family reunification in the case of ascending previously regrouped. Also specifies the circumstances in which spouses and children grouped can access a separate residence permit, for which in any case be required to have a permission to work.

Moreover, changes in visa chase simplify the administrative process, in order to promote legal immigration of foreigners wishing to reside in Spain, eliminating unnecessary procedures. Thus, visa, once the alien has entered Spain, enables them to remain in the position for which they have been issued.

In fulfilling the objectives set by the reform is a basic issue of providing the visa of a new additional function, which is to serve as documentation of a previous authorization to reside and, where appropriate, work in Spain. Thus visa is tied to a novel effect: to enable the alien to remain in our country in the position for which he was issued.

At present visa no effect once the alien has entered Spain, he must go immediately to the relevant offices to apply for authorization of residence and / or work. With the new model, besides the above, the visa allows you to stay in national territory in the situation for which purpose has been granted. Indeed, if the visa is not only to enter Spain, but also enables to remain and, where appropriate, to work, makes no sense to maintain the exemption the same as granting not only serve to waive a requirement of entry into our country, but also necessary to waive the granting of authorization to live and work.

This does not mean that the factual circumstances that previously governed under the figure of the visa waiver will be without legal reflection, since they are now in the field of temporary residence permit in exceptional circumstances, whose profiles are amended by including in the law, in some cases specifically and in other more generic "exceptional circumstances", allowing the rules to more precise regulation of what situations will fall within this generic statement.

We introduce an improvement in the regulation of cases in which documentation shall undocumented aliens.

It also incorporates relevant amendments to introduce clarifications, relating to fees, contains the above Council Decision of 20 December 2001. In terms of offense and its penalty system have been incorporated amendments aimed at providing the legal system with additional tools to combat illegal immigration.

In relation to the detention centers, is included in the Basic Law a new section dedicated to regulate the internal rules of these institutions, ensuring the right of internal communication.

As regards transport companies are incorporated in order to meet obligations information on passengers who are to be moved to Spain before his departure from the country of origin, as well as those passengers not to leave Spanish territory the date specified in the ticket.

It also includes modifications to adapt the title to the obligations under the guidelines approved by European Union sanctions on carriers and mutual recognition of expulsion orders.

Finally, new additions that are incorporated into the Organic Law 4 / 2000, as amended by Organic Law 8 / 2000, are aimed, firstly, to introduce instruments to improve the management of procedures for aliens in order to sort properly, migration and prevent abuse of those.

This will be incorporated, in general, the Impartiality of interest in submitting applications for residence permits and work to be accomplished in the records of the relevant bodies for their information.

This will produce a greater immediacy in which applications are received, winning the processing efficiency of the procedures.

The last of the additional provisions reflects the principle of collaboration between public authorities relating to aliens and immigration, enabling access to the Security Forces of the State, the exclusive purposes of fulfilling their duties, and with full respect for guarantees provided in respect of data protection to certain information in their possession other organs of state administration.

## **V**

Finally joining the law the identity documents of foreigners to be given on your registration Padronale, adapting the system of EU citizens to the provisions of Royal Decree 178/2003 of 14 February, on the entry and permanence in Spain of nationals of Member States of the European Union and other States party to the Agreement on the European Economic Area.

It also introduces a generic enabling access to the Municipal Register for the Police Department in order to improve the exercise of powers lawfully established on control and stay of foreigners in Spain. This rating is formulated in terms of reciprocity with the National Statistics Institute, in establishing the obligation of the General Directorate of Police report to the National Institute of Statistics, in order to update the contents of the Census, data on foreign is satisfied that they may have suffered variations of those entered in that court.

## **PREAMBLE**

(Law 2 / 2009 of 11 December)

## **I**

The Organic Law 4 / 2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration has been amended three times since its approval, in particular, has been amended by Organic Laws 8 / 2000 of 22 December, 11/2003 of 29 September and 14/2003 of 20 November.

Of all the reforms that had the Act specified noteworthy because of their greater depth, which took place just months after its entry into force by the Organic Law 8 / 2000 of 22 December. Some of the changes introduced by this law led to the filing of several resources of unconstitutionality against it.

The Constitutional Court has resolved the constitutional motions indicated, inter alia, Case 236/2007 of 7 November and 259/2007 of 19 December, acknowledging that the stated requirement imposed on foreign law for the exercise of fundamental rights of assembly, association, union and strike, they had legal residence in Spain, was an unjustified restriction and therefore contrary to the Constitution, because according to those rights the same reach to all people the fact of being.

Consistent with this, the Constitutional Court has declared unconstitutional the articles of the Organic Law 4 / 2000 regulating the fundamental rights given.



## II

On the other hand, has grown the number of EU rules affecting the Immigration Law of the European states, thus, are increasingly adopting the rules in the European Union on immigration, which must be incorporated into our legal system. Along those issues included the signing of the European Pact on Immigration and Asylum, which was endorsed at the European Council of 16 October 2008 by the 27 member countries of the European Union, which sets as its main objective to get an immigration legal and orderly, combating illegal immigration and to encourage integration of legal immigrants through a balance of rights and duties.

This Act takes this reality as something positive in the belief in the need for a common European legal framework on immigration.

So far this were outstanding addition to our legal system directives have been adopted since the last reform of the Law 4 / 2000 of January 11, conducted in December 2003, these being the following:

a) Directive 2003/110/EC, the Council of 25 November 2003 on assistance in cases of transit for the purposes of removal by air. (OJEU of 6 December 2003).

b) Directive 2003/109/EC of the Council of 25 November 2003 relating to the Status of third country nationals who are long (OJEU of 23 January 2004).

c) Directive 2004/81/EC of the Council of 29 April 2004 on issuing a residence permit to third country nationals who are victims of human trafficking or have been subject of an action aid to illegal immigration who cooperate with the competent authorities (OJEU of 6 August 2004).

d) Directive 2004/82/EC of the Council of 29 April 2004 on the obligation of carriers to communicate passenger data of persons carried (OJEU of 6 August 2004).

e) Directive 2004/114/EC of 13 December 2004, the Council on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJEU of December 23, 2004).

f) Directive 2005/71/EC of 12 October 2005, the Council on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJEU of 3 November 2005).

g) Directive 2008/115/EC of 16 December 2008, the European Parliament and the Council concerning the rules and procedures in Member States for returning illegally staying third-country nationals staying illegally in (OJEU of December 24, 2008).

h) Directive 2009/50/CE of the Council of 25 May 2009 concerning the conditions of entry and residence of third country nationals for highly qualified employment purposes (OJEU of 18 June 2009).

i) Directive 2009/52/CE of the European Parliament and Council of 18 June 2009, laying down minimum standards on sanctions and measures applicable to employers of third country nationals in irregular situation (OJEU of June 30, 2009).

In any case, it should be noted that although our legislation predates the adoption of direct, many of the aspects that are regulated under the same and are reflected in our legal system, either in Law 4 / 2000 of 11 January, in its current form or in the Standing Orders as approved by Royal Decree 2393/2004 of 30 December.

Also, it is crucial to this end the ratification and entry into force in our country of its obligations under the Council of Europe Convention on Action against Trafficking in Human Beings (Convention No. 197 of the Council of Europe), done at Warsaw on 16 May 2005.

### **III**

Immigration is a reality that is constantly changing. Therefore, the legislator is obliged to adapt to its regulations if it wants to provide effective solutions to new challenges.

In addition, migration has become such a dimension in Spain and has such an impact on the economic, social and cultural development by requiring public authorities to develop resolute action on several fronts, including policy. Therefore, public authorities must manage and provide legal channels for migration so that they conform to our ability to host and the real needs of our labor market.

Moreover, Spain is firmly committed to defending human rights, so that public authorities should promote the full integration of immigrants into our country and ensure peaceful coexistence and social cohesion between immigrants and the native population.

### **IV**

Thus, there are three reasons justifying the proposed reform of the Organic Law 4 / 2000 of 11 January, as it stands:

a) The need to incorporate the Basic Law the Constitutional Court's jurisprudence, giving a new wording for this line with the Constitution, articles thereof that have been declared unconstitutional.

b) The need to incorporate into our legal system, indicated through the Organic Law, the European directives on immigration that are pending for implementation or have not been fully implemented.

c) The need to adapt the Act refers to the new migration situation in Spain, which has a few features and poses different challenges from those that existed when it approved the latest amendments to the law.

## **V**

Moreover, the objectives to be achieved by this reform are:

1. Establish a framework of rights and freedoms of foreigners which guarantees everyone the full exercise of fundamental rights.

2. Improving the system of legal and orderly channeling of labor migration, strengthening the linkage of the reception capacity of migrant workers into the labor market needs.

3. Increase efficiency in the fight against illegal immigration, strengthening the means and instruments of control and enforcement, especially as regards those who facilitate access or permanence of illegal immigration in Spain, adding to the system of penalties in this case and by strengthening the procedures for reimbursement of foreigners who have entered our country illegally.

4. Strengthening integration as one of the cornerstones of immigration policy, taking into account the acquis of the European Union on migration and international protection bid to achieve a framework of coexistence of identities and cultures.

5. Adapt the rules to work implementing powers provided for in the Statutes of Autonomy, that affect the initial authorization scheme of work, and the statutory powers in terms of reception and integration, as well as enhance the coordination of actions between public authorities competencies also affect immigration and strengthen cooperation between them in order to provide a more effective and better citizens.

Since during the last legislative session various reforms have been adopted in the Statute of Autonomy of the Autonomous Communities, for the first time, incorporate competencies linked to immigration, it makes sense to adapt its regulatory framework to the new distribution of powers. Also attended the distribution of powers, it seems imperative that this law will specify the different levels of competence in an article, as is the new Article 2 a, which generically defines the ordering principles of immigration policies in Spain.

6. Strengthen and institutionalize the dialogue with immigrant organizations and other organizations with interest and involvement in the migration area,

including including trade unions and employers' representative, in the definition and development of migration policy.

## **VI**

This Act has a single article, we report on the same all the changes that were introduced in the Organic Law 4 / 2000 of 11 January, both in the body and in its supplementary provisions. Moreover, the Act has several provisions and a single final repeal provision.

The Organic Law 4 / 2000 of 11 January which will reform remains articulated structure that is built into a Preliminary Title, Articles 1 to 2 b, dedicated to the General Provisions, a Title I, Articles 3 to 24, dedicated the rights and freedoms of foreigners, a Title II, Articles 25 to 49, devoted to the legal situation of foreigners, a Title III, Articles 50 to 66, which deals with breaches of rules on foreigners and its system of penalties and a Title IV, Articles 67 to 72, dedicated to the coordination of public authorities, also has nine additional, three transitional, a derogatory and ten finishes.

## **VII**

The amendments introduced by Law No. 4 / 2000 of 11 January, by this Act apply to all securities of the same.

Precision is useful to general affecting several articles on the terms of residence or resident, in any case be understood to imply a state of legal residence or stay, that is, according to the requirements set and, therefore, enable the alien's stay in our country in any of the situations covered. When you omit the reference to the situation of stay or residence, as for the exercise of fundamental rights is precisely because this situation should not be required.

In the Preamble set introduces a new Article 2 a, which is defined migration policy, laid down the principles and policy components of it and indicates its competence framework and a new Article 2b ordering principles and actions on integration of immigrants.

Under Part I introduces important modifications in order to outline what should be the framework of rights and freedoms of foreigners, together with related obligations, which involves the recognition of basic rights to foreigners regardless of their situation in Spain and the establishment of a progressive system of access rights to others based on strengthening the legal status with increasing the period of legal residence.

Stresses in this title the new settlement of rights of assembly and demonstration, association, union and strike may be exercised in accordance with the Spanish Constitution, in the terms established by the Constitutional Court and the new regulation that makes the rights education, which is fully recognized until he was eighteen, as well as legal aid, in which regulation has

been taken into account, in addition to the jurisprudence of the Constitutional Court, the Ombudsman's recommendations. However, it should also be mentioned that, according to the interpretation of the Constitutional Court, no right is absolute, which means that the state has the capacity to impose any limits on the stay of foreigners if it is not based on a legal residence.

Also highlighted in this title the new regulation that gives the right to family reunification, the fundamental change introduced is that the beneficiaries of reunification, in line with what happens in most countries around us are basically delimit to the families that make up the nuclear family, the novelty here is that within this category of family, the couple is included with the applicant having a relationship similar to marriage affectivity, and these are grouped provides immediate access to the labor market. However, this reform leads to reunification of the ancestors is limited, as a rule, the over sixty-five years, providing humanitarian reasons may exist that allow a lower age.

In Title II introduces significant changes, mostly due to the transposition of European directives, emphasizing especially those incorporating new situations of foreigners, they are aimed at improving the status of permanent residents, the which are aimed at more effective fight against illegal immigration, highlighting among others the creation of a registry to track entries and exits. We should also mention the new article referring to foreign women victims of gender violence, which allows them to obtain authorization under exceptional circumstances and is intended to facilitate the reporting of these events. The law also introduces amendments to improve the system of legal and orderly channeling migration flows, bet again for orderly immigration in a legal framework and strengthened immigration policy that links the arrival of new immigrants to market needs work. In this regard, inter alia, regulates more concrete level of national employment situation in the catalog of difficult and limited coverage time consent to an occupation and territorial scope. Special mention the modifications made in relation to the integration of unaccompanied foreign children, which encourage better treatment of the child's situation, ranging from the possibility of repatriation to country of origin to ensure, where this is not the answer, the best conditions to ensure full integration of them into Spanish society, which must be an explicit objective of all the policies pursued by the various public authorities.

In Title III, with the aim of reinforcing the fight against illegal immigration are expected to prevent further infringements fraudulent behavior, such as marriages of convenience, the promotion of illegal immigration by indirect means or misrepresentation of data for enumeration . With the same objective is proposed to increase the economic sanctions for all offenses. Also introduced certain modifications in order to provide greater efficiency and more safeguards, to measures of suspension and return; also contemplates the extension of the period of detention would happen 60 days from the 40 that currently apply and as improving the legal security of those affected by these measures with the granting of a period of voluntary compliance with the expulsion order.

In Title IV is making certain amendments in order to strengthen coordination and cooperation of the government on immigration and of institutionalization in this regard the participation of trade unions and employers' representative.

Among the changes being introduced include the introduction to the Law of the Sectoral Conference on Immigration, as one of the most effective channels through which cooperation between the General State Administration and the Autonomous Communities, as well as requiring coordinated action by both general government, when the autonomous region had assumed responsibility for initial work authorization.

Another important change is that the law recognizes and institutionalizes the tripartite Labor Commission as institutional channel to establish dialogue with trade unions and employers' representative on migration.

## **VIII**

Consistent with the foregoing, it is considered that this reform of the Organic Law 4 / 2000 of 11 January in Spain permit to develop a comprehensive migration policy, integrated and sustainable is needed for the coming years.

### **PRELIMINARY TITLE General Provisions**

#### **Article 1. Delineating the area.**

1. Foreigners are considered, for purposes of implementing this Act, those without Spanish nationality. (Prepared under the Organic Law 8 / 2000)

2. Nothing in this Act shall, in any case, without prejudice to special laws and international treaties to which Spain is party. (Prepared under the Organic Law 8 / 2000)

3. Nationals of the Member States of the European Union and those to whom it applies the Community scheme will be governed by the rules governing it, being applicable to this Act those matters which might be more favorable. (Added by Organic Law 14/2003 and drafted according to the Organic Law 2 / 2009)

#### **Article 2. Exclusion Act.**

Excluded from the scope of this law:

a) Diplomatic agents and consular officials accredited in Spain and other members of permanent diplomatic missions or special and consular posts and their families, under the rules of international law, are exempted from the

obligations to register as aliens and obtain a residence permit.

b) The representatives, delegates and other members of permanent missions or delegations to the Intergovernmental agencies based in Spain or in international conferences held in Spain, as well as their families. (Prepared under the Organic Law 2 / 2009)

c) officials in international or intergovernmental organizations based in Spain, as well as their families, whom the Treaties on which Spain is party to derogate from the obligations referred to in paragraph a) above.

### **Article 2a. Immigration policy. (Added by Organic Law 2 / 2009)**

1. It is for the Government in accordance with the provisions of Article 149.1.2. Rd of the Constitution, the definition, planning, regulation and development of immigration policy, without prejudice to the powers that may be assumed by the Autonomous Communities and Local Entities.

2. All government will base the exercise of its powers related to immigration in respect of the following principles:

a) coordination with the policies defined by the European Union;

b) management of labor migration, according to the needs of the national employment situation;

c) social integration of immigrants through horizontal policies directed to all citizens;

d) effective equality between women and men;

e) the effectiveness of non-discrimination principle and, consequently, the recognition of equal rights and obligations for all who live and work legally in Spain, as provided in the Act;

f) to ensure the exercise of their rights under the Constitution, international treaties and laws recognize all;

g) the fight against illegal immigration and prosecuting trafficking in persons;

h) persecution of human beings;

i) equal treatment in employment conditions and social security;

j) promotion of dialogue and cooperation with countries of origin and transit of immigration, through framework agreements aimed at sort of migratory flows effectively and to promote and coordinate efforts of development cooperation and joint development.

3. The State shall guarantee the principle of solidarity enshrined in the Constitution, taking into account the special circumstances of those territories in which migration flows have a special impact.

## **Article 2b. Integration of immigrants. (Added by Organic Law 2 / 2009)**

1. The public authorities shall promote the full integration of foreigners in Spanish society in a framework of coexistence of identities and cultures limited only by respect for the Constitution and the law.

2. The government will incorporate the goal of integration between immigrants and host society, under the mainstream of all policies and public services, promoting economic participation, social, cultural and political status of immigrants, as provided in the Constitution, Statutes of Autonomy and other laws, and equal treatment.

Especially endeavor, through training activities, knowledge and values are respected constitutional and Spain, the European Union values and human rights, civil liberties, democracy, tolerance and equality between women and men, and develop specific measures to promote entry into the education system, ensuring in every case the compulsory schooling age, the learning of all languages, and access to employment as essential for integration.

3. The General State Administration shall cooperate with the Autonomous Communities, the cities of Ceuta and Melilla and the municipalities to achieve the purposes described in this article, as part of a multi-year strategic plan that includes among its objectives address the integration of unaccompanied foreign minors. In any case, the General State Administration, the Autonomous Regions and Municipalities will collaborate and coordinate their actions in this area by reference to their integration plans.

4. In accordance with the criteria and priorities of the Strategic Plan for Immigration, the Government and the State government agreed in the Sectoral Conference on Immigration biennial action programs to strengthen the social integration of immigrants. Such programs will be funded from a state fund for the integration of immigrants, which will provide annually, and may include co-funding formulas by the host government of the Fund.

## **TITLE I**

### **Rights and Freedoms of Foreigners**

## **CHAPTER I**

### **Rights and Freedoms of Foreigners**

## **Article 3. Rights of foreigners and interpretation of the rules.**

1. Aliens in Spain shall enjoy the rights and freedoms set forth in Title I of the



Constitution in the terms of international treaties, this Law and those governing the exercise of each. As a general criterion of interpretation, means that foreigners shall exercise the rights under this Act on an equal footing with Spanish. (Prepared under the Organic Law 8 / 2000)

2. The rules relating to fundamental rights of aliens shall be construed in accordance with the Universal Declaration of Human Rights and international treaties and agreements on such matters in force in Spain, without reference to the profession of religious belief or cultural or ideological convictions different sign to justify the performance of acts or conduct contrary to them. (Prepared under the Organic Law 2 / 2009).

**Article 4. Rights to documents. (Prepared under the Organic Law 2 / 2009).**

1. Foreigners who are in Spanish territory have the right and duty to retain documents as proof issued by the competent authorities of the country of origin or provenance, as well as certifying their status in Spain.

2. All aliens who were issued a visa or permission to stay in Spain for a period exceeding six months, will the foreigner's identity card, which must apply in person within one month of their arrival in Spain or from granting the authorization, respectively. Are exempted from this requirement for holders of a residence visa and seasonal work.

Regulations shall develop the assumptions may be obtained when the identity card has been granted permission to stay in Spain for a period not exceeding six months.

3. Foreigners may not be deprived of their papers, except in the circumstances and the requirements under this Act and the Organic Law 1 / 1992 of 21 February on Protection of Public Safety.

**Article 5. Right to freedom of movement. (Prepared under the Organic Law 2 / 2009)**

1. The aliens in Spain in accordance with the provisions of Title II of this Act, shall be entitled to move freely throughout the Spanish territory and residence without further limitations than those established in general by the treaties and laws, or those agreed by the judicial authority, as a precaution or in any criminal or extradition proceedings in which the alien has the status of accused, victim or witness, or as a result of a final sentence.

2. However, specific restrictive measures may be established as agreed in the declaration of emergency or siege, as provided in the Constitution, and, exceptionally for public safety reasons, individually, motivated and in proportion to the circumstances that present in each case, by order of the Minister of the Interior, taken in accordance with legal guarantees of the infringement procedure under the Act restrictive measures whose duration shall not exceed

the time necessary and proportional to the persistence of the circumstances justifying the adoption of the same, may include regular reporting to the competent authorities and the removal of borders or specific population centers uniquely.

**Article 6. Public participation. (Prepared under the Organic Law 2 / 2009)**

1. Foreigners resident in Spain may be in possession of the right to vote in municipal elections in the manner provided in the Constitution, international treaties, if any, and the Law

2. Foreign residents that are registered in a municipality have all the rights established by such a concept in law on local database and can be heard on matters affecting them in accordance with regulatory requirements apply.

3. The Municipalities incorporated into the standard to foreigners who have their habitual residence in the town and keep updated the information on them.

4. The public authorities shall facilitate the exercise of voting rights of foreigners in democratic electoral processes of the country.

**Article 7. Freedoms of assembly and demonstration.**

1. They have the right to assemble under the same conditions as Spanish. (Prepared under the Organic Law 2 / 2009)

2. The promoters of meetings or demonstrations in public places will give prior notification to the competent authority in advance under the Organic Law governing the right of assembly, which shall not prohibit or propose amendments but for the reasons specified in that Act

**Article 8. Freedom of association. (Prepared under the Organic Law 2 / 2009)**

All foreigners have the right to association under the same conditions as Spanish.

**Article 9. Right to education. (Prepared under the Organic Law 2 / 2009)**

1. Foreigners under sixteen have the right and duty to education, including access to basic education free and compulsory. Foreigners under eighteen are also entitled to post-compulsory education.

This right includes the taking of appropriate academic qualifications and access to public system of scholarships and grants under the same conditions as Spanish.

If they reach the age of eighteen years during the school year, remain entitled to completion.

2. Foreigners over eighteen who are in Spain have the right to education in accordance with the provisions of education legislation. In any case, foreign residents over the age of eighteen have the right to access other post-compulsory educational stages, to obtain relevant qualifications, and the public system of grants under the same conditions as Spanish.

3. The public authorities shall promote that foreigners can receive training for their social integration.

4. Foreign residents in Spain who have children in their care at school age, the school must certify, in a report issued by the competent regional authorities, applications for renewal of its authorization or in its application for long-term residence.

**Article 10. Right to work and social security. (Prepared under the Organic Law 2 / 2009)**

1. Foreign residents who meet the requirements of this Act and the rules that develop have the right to engage in gainful employment or self employed, and to access the Social Security system in accordance with current legislation.

2. Foreigners will have access to public employment as provided in the Law 7 / 2007 of 12 April, the Civil Service Basic Statute.

**Article 11. Freedom to organize and strike. (Prepared under the Organic Law 2 / 2009)**

1. Foreigners have the right to organize freely and to join a professional organization under the same conditions as Spanish workers.

2. Foreigners may exercise the right to strike under the same conditions as Spanish.

**Article 12. Right to health care. (Prepared under the Organic Law 2 / 2009)**

1. Foreigners who are in Spain, entered in the register of the municipality where they have their habitual residence, are entitled to healthcare under the same conditions as Spanish.

2. Foreigners in Spain have the right to emergency health care for serious illness or accident, whatever its cause, and continuity of such care until the state of discharge.

3. Foreigners under eighteen who are in Spain are entitled to healthcare under the same conditions as Spanish.

4. Foreign pregnant women who are in Spain are entitled to health care during pregnancy, childbirth and postpartum.

### **Article 13. Housing rights. (Prepared under the Organic Law 2 / 2009)**

Foreign residents are entitled to access to public schemes for housing in the terms established by law and the relevant administrations. In any case, foreign permanent residents are entitled to such aid under the same conditions as Spanish.

### **Article 14. Right to Social Security and social services. (Prepared under the Organic Law 2 / 2009)**

1. Foreign residents are entitled to access to benefits and social security services under the same conditions as Spanish.

2. Foreign residents are entitled to services and benefits, both the basic and general as to the specific, under the same conditions as Spanish. In any case, foreigners with disabilities, children under eighteen, who have their habitual residence in Spain are entitled to receive treatment and care services required by their physical or mental state.

3. The foreigners, whatever their status, are entitled to services and basic social benefits.

### **Article 15. Attachment of foreigners to the same taxes as the Spanish.**

1. Subject to applicable provisions of the agreements on double taxation, aliens shall, in general, to the same taxes as the Spanish. (Prepared under the Organic Law 8 / 2000)

2. Foreigners have the right to transfer earnings and savings from Spain to his country, or any other, according to the procedures established by Spanish law and in accordance with applicable international agreements. The Government will take steps to facilitate such transfers. (Prepared under the Organic Law 2 / 2009)

## **CHAPTER II**

### **Family reunification**

### **Article 16. Right to family privacy.**

1. Foreign residents have the right to family life and family privacy in the manner provided in this Act and in accordance with the provisions of international treaties signed by Spain.

2. Foreign residents in Spain are entitled to reunite them with family members identified in Article 17. (Prepared under the Organic Law 8 / 2000)

3. The spouse who has acquired residence in Spain and his family because his family with multiples, but retain the residence is broken marriage that resulted in the acquisition.

By regulation may determine the time living in Spain prior to having to prove in such cases. (Prepared under the Organic Law 8 / 2000)

**Article 17. Family regrouping. (Prepared under the Organic Law 2 / 2009)**

1. The alien resident is entitled to reunite with him in Spain the following family:

a) The resident's spouse, provided that is not separated in fact or in law, and that marriage has not been concluded in fraud of law. In no event may regroup more than one spouse while the foreign personal law supports this mode of marriage. The alien resident who is married for the second or subsequent marriage by dissolution of each of their previous marriages can only merge with the new spouse if he proves that the dissolution has taken place following a legal procedure that determined the status of previous spouse of their children regarding the use of common property, to alimony to the spouse and foods that correspond to minor children or elderly in a situation of dependency. In the dissolution void, shall have been established economic rights of the spouse in good faith and the common child, and compensation, if any.

b) The children of the resident and spouse, including adopted children, provided they are under eighteen years old or disabled people who are objectively unable to provide for their own needs because of his health. In the case of children of one spouse only is required, moreover, that he exercises alone or custody has been granted custody and are actually responsible. In the case of an adopted child shall be proved that the resolution which was agreed to adopt the necessary elements together to produce an effect in Spain.

c) under eighteen years of age and older who are objectively unable to provide for their own needs, because of his health, when the resident's legal representative and legal acts of the representative powers arising not contrary to the principles of Spanish law.

d) ascendants of the applicant and their spouse when they are dependent, are over sixty-five years and there are reasons that justify the need to authorize their residence in Spain. Regulations shall define the conditions for reunification of the parents of long-term residents in another Member State of the European

Union, the workers holding the EU blue card and benefiting from special investigators. Exceptionally, where there are humanitarian reasons, may be grouped under the ascendancy of sixty-five years if they meet the other requirements of this Act

2. The foreigners who acquired the residence by a prior reunification may, in turn, exercise the right to family reunification of his own, provided they have already had a residence and work permit, obtained without the authorization of the applicant, and evidencing eligible under this Act.

3. In the case of ascending regrouped, they may exercise, in turn, the right of family reunification after having obtained the status of permanent residents and accredited financial solvency.

Exceptionally, the ascendancy that has regrouped in charge one or more minor children or children with disabilities that are objectively unable to provide for their own needs because of his health, may exercise the right to reunification in the terms set forth in paragraph two of this article, without having acquired the long-term residence.

4. The person with whom the foreign resident an emotional relationship similar to marriage to the spouse shall be deemed for all purposes under this chapter, provided that this relationship is duly accredited and meets the requirements needed to produce effects in Spain.

In any case, situations of marriage and similar emotional ties are considered incompatible.

There may be grouped to more than one person with similar emotional relationship, although the law of the foreign staff supports these family ties.

5. Regulations, will develop the conditions for exercising the right to reunification and to demonstrate, for these purposes, the affective relationship similar to marriage.

#### **Article 18. Requirements for family reunification. (Prepared under the Organic Law 2 / 2009)**

1. Foreigners may exercise the right to family reunification when they have received a renewal of their initial residence permit, except for the reunification of family allowances specified in Article 17.1 d) of this Act which can only be reunified as soon where the sponsor acquires the long-term residence. The reunification of family members of permanent residents, workers, blue card holders of the EU and benefiting from special investigators, may be requested and granted simultaneously with the sponsor's residence application. When you have recognized this condition in another Member State of the Union, the application may be in Spain or from the State of the European Union where they had their residence when the family was already constituted in that.

2. The applicant must certify, under the terms established in the regulations, which provides adequate shelter and sufficient financial means to meet their

needs and those of his family, once reunited. In assessing the income effects of reunification, not calculated those from the welfare system, but will take into account other income from the spouse residing in Spain and residing with the applicant. The Autonomous Communities or, where appropriate, the Councils report on the adequacy of housing for the purposes of family reunification. The government will promote the participation of integration programs grouped into socio-cultural and linguistic.

3. When family members are grouped under compulsory school age, the Administration receiving applications shall notify the competent educational authorities a prediction of family reunification procedures initiated for the purpose of enabling the necessary places in the schools concerned.

**Article 18a. Procedures for family reunification. (Added by Organic Law 2 / 2009)**

1. A foreigner who wishes to exercise the right to family reunification must apply for a residence permit for family reunification for family members wishing to regroup and may simultaneously request the renewal of residence permit and the application for family reunification.

2. Should the right to family reunification is carried by long-term residents in another Member State of the Union residing in Spain, the application may be filed by the families regroup, providing proof of residence as a member of the resident's family long duration in the first Member State.

**Article 19. Effects of family reunification in special circumstances. (Prepared under the Organic Law 2 / 2009)**

1. The residence permit for family reunification are holders of the spouse and children reunited when they reach working age, able to work without any other administrative processing.

2. The regrouped spouse may obtain a residence permit independent when sufficient financial means to meet their own needs. If the spouse was a victim of violence regrouped gender without the need for having complied with the above requirement may obtain a residence permit and work independently from the time they had rendered in its favor a protective order or, failing that, inform the Public Prosecutor indicating the presence of signs of violence.

3. The children grouped may obtain a residence permit independent when they reach adulthood and have sufficient financial means to meet their own needs.

4. Regulations shall determine the form and amount of economic resources are deemed sufficient for the family regrouped to obtain a separate authorization.

5. In case of death of the applicant, family members regrouped may obtain a separate residence permit under the conditions to be determined.

### **CHAPTER III**

#### **Legal guarantees**

#### **Article 20. Right to effective judicial protection.**

##### **1. Foreigners have the right to effective judicial protection.**

2. The administrative procedures are established in immigration matters while respecting the guarantees provided under general law on administrative procedure, especially as regards advertising rules, adversarial, hearing and reasoning of decisions, except as provided in Article 27 of this Law (Established under the Organic Law 8 / 2000)

3. In administrative proceedings shall be entitled to intervene as a legally constituted organizations interested in Spain for the defense of immigrants, specifically designated by them. (Prepared under the Organic Law 8 / 2000)

4. In the administrative-law proceedings in immigration matters will be entitled to intervene to be affected entities as provided by Article 19.1.b) of the Law of such jurisdiction. (Prepared under the Organic Law 8 / 2000)

#### **Article 21. Recourse against administrative acts.**

1. Administrative acts and decisions adopted in relation to foreigners may be appealed under the provisions of the laws.

2. The system of enforceability of administrative acts issued in immigration matters will be provided generally in the current legislation, except as provided in this Act for the management of cases of expulsion on a preferential basis. (Prepared under the Organic Law 8 / 2000)

#### **Article 22. Right to legal aid. (Prepared under the Organic Law 2 / 2009)**

1. Foreigners who are staying in Spain are entitled to legal aid in proceedings which they are party, whatever the jurisdiction in which continued under the same conditions as Spanish citizens.

2. The aliens in Spain have the right to counsel in administrative proceedings that may lead to refusal of entry, return, or expulsion from Spanish territory and in all procedures relating to international protection and assistance of an interpreter if you do not understand or speak the official language used. These assists are free if they lack sufficient financial resources according to criteria established in the regulations governing the right to legal aid.



3. In the administrative-law proceedings against decisions to end the administrative route on refusal of entry, return or expulsion, the entitlement to legal aid will require the timely application made as provided in the rules governing legal aid. The record expresses the will to bring the action or bringing proceedings shall be entered in accordance with the provisions of Law 1 / 2000 of 7 January, Civil Procedure, or if the alien may be deprived of liberty in the manner and to the public officer prescribed by regulation. For the purposes specified in this paragraph, if the alien was entitled to legal aid and find outside Spain, the application of it and, where appropriate, the manifestation of a willingness to use may be made before the diplomatic mission or consular office.

## **CHAPTER IV**

### **From anti-discrimination measures**

#### **Article 23. Discriminatory acts.**

1. For the purposes of this Act, discrimination is any act which directly or indirectly, leads to a distinction, exclusion, restriction or preference against an alien based on race, color, descent or national or ethnic origin, beliefs and practices religious, and having as its purpose or effect of nullifying or impairing the recognition or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social or cultural.

2. In any event, are acts of discrimination:

a) incurred by the authority or public official or staff of a public service, who in the performance of their duties, by act or omission, commits any act of discrimination prohibited by law against a foreigner only because of its position or by belong to a particular race, religion, ethnicity or nationality. (Prepared under the Organic Law 2 / 2009)

b) All that impose more stringent conditions than the Spanish, or that involve a resistance to facilitate foreign goods or services offered to the public, just by their position or belonging to a particular race, religion, ethnicity or nationality.

c) Everyone who unlawfully impose more stringent conditions than the Spanish or restrict or limit access to jobs, housing, education, vocational training and social services and socioasistenciales, and any other right recognized in this Act, an alien who is lawfully in Spain, just by their position or belonging to a particular race, religion, ethnicity or nationality.

d) All impeding, through action or omission, exercising an economic activity lawfully undertaken by an alien legally resident in Spain, just by their position or belonging to a particular race, religion, ethnicity or nationality.

e) any treatment constitutes indirect discrimination arising from the adoption of

criteria that harm workers by their foreign or belonging to a particular race, religion, ethnicity or nationality. (Prepared under the Organic Law 8 / 2000)

#### **Article 24. Applicability of summary proceedings.**

The legal protection against any discriminatory practice that violates fundamental rights and freedoms may be required by the procedure provided in Article 53.2 of the Constitution in the legally established terms.

### **TITLE II**

#### **Legal Status of Foreigners**

**(Heading amended by Organic Law 8 / 2000)**

### **CHAPTER I**

#### **The entry and leaving the Spanish**

#### **Article 25. Requirements for entry into Spanish territory.**

1. Foreigners wishing to enter Spain should do for positions authorized, be in possession of passport or travel document attesting to their identity, which is considered valid for that purpose by international agreements signed by Spain and not subject to prohibitions express. It must present the documents specified in the regulations supporting the purpose and conditions of stay, and prove sufficient livelihood for the time you intend to stay in Spain or be able to acquire such means legally. (Prepared under the Organic Law 8 / 2000)

2. Except where otherwise provided for in international agreements signed by Spain or the European Union standards, will further require a visa. No visa is required if the foreigner is provided with the foreigner's identity card or, exceptionally, a return authorization. (Established under the Organic Law 14/2003)

3. Nothing in the preceding paragraphs shall not apply to aliens who apply for the right of asylum at the time of their entry into Spain, whose concession is governed by the provisions of specific legislation.

4. It may be granted entry into Spain of foreigners who do not meet the requirements established in the preceding paragraphs if there are exceptional humanitarian reasons, public interest or compliance with commitments made by Spain. In these cases, there will be foreign to deliver documentation is established by regulation.

5. The entry into national territory of foreigners who are not implementing them is the Community scheme, can be recorded by the Spanish authorities to control the effects of their period of legal stay in Spain, in accordance with Law 15/1999 of 13 December on the protection of personal data. (Added by Organic Law 2 / 2009)

**Article 25a. Types of visas. (Added by Organic Law 14/2003 and drafted according to the Organic Law 2 / 2009)**

1. Foreigners who intend to enter Spanish territory must have a visa that is validly issued and in force, issued in your passport or travel document or, where appropriate, in a separate document, except as provided in paragraph 2 of Article 25 this Act

2. The visas referred to in paragraph above will become one of the following classes:

a) transit visa, which authorizes transit through the international transit area of an airport or Spanish through the Spanish territory. It will not be required to obtain the visa in case of transit of an alien for purposes of removal by air requested by a Member State of the Union or by a third state that has signed an international agreement with Spain on this matter.

b) Visa International, which enables for a continuous visit or several visits for a period or periods amount to a total not exceeding three months within six months from the date of the first inning.

c) Residence visa, which enables them to live without work or professional practice.

d) work and residence visa, which entitles to the entry and stay for a maximum period of three months and for the start in this term of employment or professional activity for which had been previously authorized. At this time should produce the highest position in the Social Security that will provide efficiency to the authorization of residence and work, or self. If within a period there had been no discharge, the alien shall be obliged to leave the country, incurring otherwise, infringement under Article 53.1.a) of this Act

e) Residence visa and seasonal work, which enables others to work for up to nine months in a period of twelve consecutive months.

f) Student Visa, which enables to stay in Spain to pursue courses, studies, research or training, exchange of students, labor practices or voluntary service, non-remunerated.

g) research visa, which entitles the alien to remain in Spain to conduct research projects as part of a hosting agreement signed with a research organization.

3. Regulations will be developed for different types of visas.

**Article 26. Prohibition of entry into Spain. (Prepared under the Organic Law 8 / 2000)**

1. Spain can not enter, or obtain a visa for that purpose, foreigners have been expelled, the duration of the prohibition of entry, and those having other reason prohibited by law established or under international conventions to which it is part Spain.

2. Foreigners who do not meet the requirements for entry, they will be denied a reasoned decision, with information about resources that can bring against her, deadline to do and the authority to whom they should be formalized, and their right to counsel , which may be ex officio, and interpreter, which starts at the time of check is carried out at the border post.

### **Article 27. Visa issue.**

1. Visa is requested and issued in diplomatic missions and consular offices of Spain, except in the exceptional circumstances contemplated by regulation or in cases in which the Spanish State, in accordance with Community legislation on the subject, representation has been agreed with another member of the European Union in terms of transit visas or residence. (Prepared under the Organic Law 2 / 2009)

2. The granting of the visa: (Prepared according to the Organic Law 14/2003)

a) enables aliens to appear in a Spanish outpost and solicit their input.

b) enables aliens, once you have made the entry into Spanish territory to remain in Spain under the conditions for which had been issued, without prejudice to the obligation to obtain, where appropriate, the foreigner's identity card.

3. Regulations shall establish the specific rules of procedure for granting and issuing visas, as provided in the eleventh additional provision of Law 30/1992 of 26 November. This procedure may be required the personal appearance of the applicant. (Prepared under the Organic Law 8 / 2000 and 14/2003)

4. The exercise of the power of granting or denial of visas will be subject to existing international commitments in this area and will be geared towards achieving the aims of foreign policy of the Kingdom of Spain and Spanish or other public policies of the European Union, as immigration policy, economic policy and public security. (Prepared according to the Organic Laws 8 / 200 and 14/2003)

5. For exceptional cases may be fixed by regulation to other criteria to be submitted granting and refusal of visas. (Prepared according to the Organic Laws 8 / 2000 and 14/2003)

6. The visa denial must be justified in the case of visas for family reunification or for paid employment, as well as for residence visas or transit. If the refusal is that the visa applicant is included in the list of alerts under the Convention

Implementing the Schengen Agreement of 14 June 1990 would be communicated well in accordance with standards established by that Convention . The resolution expressed the resources against the same procedure body before to be submitted and deadline for remedies. (Prepared under the Organic Law 2 / 2009)

**Article 28. Spain's departure. (Prepared under the Organic Law 2 / 2009)**

1. The outputs of the Spanish territory may be made freely, except in cases provided for in the Penal Code and this Act's removal of aliens who are not implementing them is the Community scheme, can be registered by the Spanish authorities to effects of control of their period of legal residence in Spain in accordance with Law 15/1999 of 13 December on the Protection of Personal Data.

2. Exceptionally, the Minister of the Interior may prohibit the departure of the Spanish territory for reasons of national security or public health. The investigation and resolution of cases of prohibition will always have individual character.

3. The output will be compulsory in the following cases:

a) Expulsion of Spanish territory by court order, as provided in the Criminal Code.

b) Expulsion or refoulement agreed by administrative decision in the cases provided for in this Law

c) Refusal administrative requests from abroad to continue to stay in Spanish territory, or lack of authorization to be in Spain.

d) Compliance with the deadline by which a foreign worker it has agreed to return to their country of origin under a program of voluntary return.

**CHAPTER II**

**From the residence permit and residence  
(Heading amended by Organic Law 2 / 2009)**

**Article 29. List of situations.**

1. Foreigners may be in Spain in situations or residence. (Prepared under the Organic Law 14/2003)

2. The different situations of foreigners in Spain may be evidenced by a passport or travel document as proof, visa or alien identification card, as appropriate. (Established under Law 2 / 2009)

### **Article 30. Status of stay.**

1. Estancia is to remain in Spanish territory for a period not exceeding 90 days, without prejudice to Article 33 for admission for studies, exchange of students, labor practices or voluntary service. (Prepared under the Organic Law 2 / 2009)
2. After this time, to stay in Spain will be obtained or an extension of stay or residence permit.
3. In the case of entry visa, if the duration of this less than three months may extend the stay, which may in no case exceed three months, six months. (Prepared under the Organic Law 8 / 2000)
4. In cases of entry without a visa, if exceptional circumstances so warrant, may be authorized stay of an alien in the Spanish territory beyond three months. (Prepared under the Organic Law 8 / 2000)

### **Article 30a. Location of residence. (Added by Organic Law 14/2003)**

1. Resident aliens who are in Spain and are holders of an authorization to reside.
2. The residents will be in the situation of temporary residence or residence of long duration. (Prepared under the Organic Law 2 / 2009)

### **Article 31. Temporary residence status. (Prepared under the Organic Law 2 / 2009)**

1. Temporary residence status is the Authorization to stay in Spain for a period exceeding 90 days and less than five years. Authorizations for less than five years may be renewed, upon request, in the circumstances for granting them. The initial duration of temporary residence permits and renewals will be set by regulation.
2. The initial temporary residence permit which does not pass will be granted a work permit to foreigners who have sufficient resources for themselves and, where appropriate, for his family. The Regulations shall define the criteria for determining the adequacy of such resources.
3. The Administration may grant a temporary residence permit attachment status, as well as for humanitarian reasons, collaboration with the courts or other exceptional circumstances specified in the regulations. In these cases the visa is not required.
4. The initial authorization of temporary residence and work, to undertake paid authorized persons and / or persons, be granted in accordance with the provisions of Articles 36 and following of this law

5. To authorize the temporary residence of an alien will need to have no criminal record in Spain or in the former countries of residence, existing crimes in the Spanish system and not appear as reprehensible in the territorial space of countries with which Spain has signed an agreement to that effect.

6. Foreigners with temporary residence permit shall be obliged to make known to the competent authorities of changes of nationality, marital status and address.

7. For the renewal of temporary residence permits, will be assessed if:

a) A criminal record, considering the existence of pardons or situations of conditional remission of sentence or suspension of the imprisonment.

b) Breach of the obligations of foreign tax and social security.

For the purpose of such renewal will particularly value the integration efforts abroad to advise its renewal, evidenced by a positive report of the Independent Community certifying attendance at the training activities provided for in Article 2b of this Act

**Article 31a. Temporary residence and work of foreign women victims of gender violence. (Added by Organic Law 2 / 2009)**

1. The foreign women victims of gender violence, whatever their status, are guaranteed the rights recognized in the Organic Law 1 / 2004 of 28 December on Integral Protection Measures against Gender Violence, and the measures of protection and security laid down in existing legislation.

2. If a situation denounced gender violence against foreign women were to indicate their illegal status, the administrative record of penalties brought for infringement of Article 53.1.a) of this Act shall be suspended by the instructor until the resolution of criminal proceedings.

3. A foreign woman who is in the situation described in the preceding paragraph, request permission to reside and work in exceptional circumstances from the time that it had been delivered an order of protection to them, or, alternatively, Report Public Prosecutor indicating the presence of signs of violence. Such approval will not be resolved until the conclusion of criminal proceedings.

Notwithstanding the foregoing, the competent authority to grant permission in exceptional circumstances may be granted provisional residence permits and work for a foreign woman. The provisional authorization granted eventually completed in the time it definitely is granted or refused permission for exceptional circumstances.

4. When the criminal proceedings concluded with a conviction, it shall notify the

interested granted temporary residence and work requested. In the event that has not been sought, will be advised of the possibility of granting its approval for residence and work in exceptional circumstances giving a deadline for their application.

When completed criminal proceedings could not deduce the situation of gender violence, will continue the administrative record initially suspended penalty.

### **Article 32. Long-term residence. (Prepared under the Organic Law 2 / 2009)**

1. The term residence is the situation that allows live and work in Spain indefinitely, under the same conditions as Spanish.

2. Entitled to long-term residents who have taken temporary residence in Spain for five years continuously, which meet the conditions established by regulation. For the purpose of obtaining long-term residence of the periods prior and continuous residence in other Member States, as holder of the EU blue card. Residence shall be deemed to have been continued but for holiday periods or other reasons established by regulation the alien has left the country temporarily.

3. The long-term foreign residents in another Member State of the Union may apply for themselves and obtain a permit from long-term residence in Spain where they will develop an activity or self-employed, or for other purposes, under the conditions established in the regulations. However, the assumption that long-term foreign residents in another member state of the European Union wish to retain the status of long-term resident status acquired in the first member may request and obtain a temporary residence permit in Spain.

4. In the regulatory criteria shall be established for the granting of other permits long-term residence in individual cases of special links with Spain.

5. The extinction of the long-term residence will be in the following cases:

a) When the permit was obtained fraudulently.

b) When an order of deportation in cases under the Act

c) In case of absence from European Union territory for 12 consecutive months. Regulations shall provide exceptions to the loss of authorization for this reason, and the procedure and requirements for authorization to recover the long-term residence.

d) When acquiring the long-term residence in another Member State.

6. Foreign nationals who have lost their status as permanent residents can regain that status through a simplified procedure to be developed by regulation.



It will apply especially in the case of persons residing in another Member State for the studies.

**Article 33. Arrangements for the purposes of studies, pupil exchange, labor practices or voluntary service. (Prepared under the Organic Law 2 / 2009)**

1. May be authorized under the stay, the foreigner who has the sole or main purpose of the following conduct non-work activities:

a) courses or expand studies.

b) Undertake research or training, subject to special arrangements of researchers as specified in Article 38 bis of this Act

c) To participate in exchange programs for students in any educational or scientific, public or private, officially recognized.

d) Implement practices.

e) Conduct voluntary service.

2. The validity of the authorization will coincide with the duration of the course you have enrolled in the research, exchange of students, practices or voluntary service.

3. The authorization is extended annually if the holder proves that he still satisfies the requirements for issuing the initial authorization and meets the requirements of either the school or scientist who attends, having verified the accomplishment of the studies or research work, either by the exchange program or volunteering, or center where you conduct practices.

4. Foreigners admitted for study, work or volunteer practices may be authorized to engage in employed or self employed, insofar as this does not limit the pursuit of studies or assimilated activity in the terms by regulation determined.

5. Conducting work in a family to offset the maintenance room and in the same, while improving the language skills or professional shall be regulated in accordance with international agreements on au pairs.

6. It will facilitate entry and residence in Spain, in the terms established by regulation, foreign students who participate in the European Union intended to facilitate mobility towards the EU or the same.

7. An alien, admitted as a student in another Member State of the European Union, which applies to follow part of their studies they already started or completed in Spain may apply for a student residence permit and get it, if it meets regulatory requirements for this, not being required visa.

In order that an alien admitted as a student in Spain can apply to study part of their studies they already started or completed in another Member State of the European Union, the Spanish authorities provide timely information about the permanence of that in Spain, request of the competent authorities of that Member State.

8. Scheme are subject to stay under this article aliens pursue studies in Spain specialized medical training in accordance with Law 44/2003 of 11 November, the health professions, unless they already had a residence permit prior to opening of the Games, in which case they may continue in this situation.

#### **Article 34. Residence stateless, illegal immigrants and refugees.**

1. Interior Minister recognized the status of stateless aliens without nationality stating that meet the requirements under the Convention on the Status of Stateless Persons, done at New York on 28 September 1954, and will issue the documents referred to in Article 27 of that Convention. Stateless person behave the specific regime is determined by regulation. (Prepared under the Organic Law 8 / 2000)

2. In any case, an alien present in units of the Ministry of Interior stating that it can not be documented by the authorities of any country and wish to be documented by Spain, having verified the relevant information and provided that all exceptional reasons and credited humanitarian, public interest or compliance with commitments made by Spain, may, in the terms prescribed by regulation, a document certifying their registration identifier in the above units. In any case, the requested documentation will be denied when the petitioner is subject to any of the provisions of article 26 or has been issued against him a deportation order. (Prepared under the Organic Law 14/2003)

3. The resolution endorsing the request for asylum in Spain constitute recognition of refugee status of the applicant, which shall be entitled to reside in Spain and secondary employment, professional and trade in accordance with the provisions of Law 5 / 1984 of 26 March, regulating the right of asylum and refugee status, as amended by Law 9 / 1994 of 19 May, and its implementing regulations. This condition will not return his or expulsion under the terms of Article 33 of the Convention on the Status of Refugees, done at Geneva on 28 July 1951. (Prepared under the Organic Law 8 / 2000)

#### **Article 35. Unaccompanied Minors. (Prepared under the Organic Law 2 / 2009)**

1. The Government shall promote the establishment of cooperation agreements with countries of origin covering, integrity, prevention of illegal immigration, protection and return of unaccompanied minors. The Autonomous Communities will be informed of such agreements.

2. The Autonomous Communities may establish agreements with countries of

origin designed to ensure that the care and social integration of children takes place in their environment of origin. Such agreements must ensure sufficient protection of the interests of minors and shall provide for appropriate monitoring mechanisms for the autonomous regions of their location.

3. In cases where the Security Forces and Bodies of State to locate an illegal alien minority which can not be established with certainty, be given by the competent services of child protection, that requires immediate attention, according with the provisions of the law of legal protection of minors, putting the fact immediately inform the public prosecutor, who will have to determine their age, for which appropriate health institutions collaborate, as a matter of priority, conduct the necessary tests.

4. Certain age, if it were a minor, the prosecution must be made available to the competent services of child protection in the autonomous region it is.

5. The State Administration requested information on the family circumstances of the child to the diplomatic representation of the country of origin prior to the decision regarding the initiation of proceedings for his return. The commencement of the proceedings agreed, after hearing the child if he has enough sense, and following a report of child protection services and prosecutors, the State Administration shall give its ruling on return to their country of origin, that where their family or, failing that, on his stay in Spain. According to the principle of best interests of children, repatriation to country of origin shall be made either through family reunification, or by the provision of children from the child protection services if conditions were suitable for protection by part thereof.

6. At age sixteen and under eighteen be recognized capacity to act on the repatriation procedure provided in this article, as well as an administrative court order for the same purpose, may intervene personally or through designated representative.

In the case of children under sixteen, with enough trial, which had indicated a desire contrary to that of the person representing the guardianship or representation, suspended the proceedings until the appointment of legal counsel to represent them.

7. Are considered regular, for all purposes, the residence of children who are protected in Spain by a Civil Service or under court order, by any other entity. At the request of the agency exercising guardianship and once it has been proven unable to return to his family and country of origin, it will give the juvenile a residence permit, whose effects are retroactive to when the minor has been released available to child protection services. The absence of authorization of residence shall not prevent the recognition and enjoyment of all rights accruing to him from his status as minors.

8. The granting of a residence permit shall not preclude the further repatriation

when in the best interests of the child, in the terms established in the fourth paragraph of this article.

9. Regulations shall define the conditions that must meet the children that are authorized supervised residence and come of age to renew its authorization or access authorization of residence and work, taking account, where appropriate, positive reports, these effects may present the public bodies responsible regarding his efforts at integration, continuity of training or studies that they were going on, and their incorporation, actual or potential labor market. The Autonomous Communities will develop the policies necessary to enable the insertion of minors in the labor market when they reach adulthood.

10. The Corps Security Forces and the State shall take the necessary technical arrangements for identifying undocumented foreign children, in order to publicize any references that might exist on them in any public institution or a foreign national charged with their protection. These data can not be used for a purpose other than that provided in this section.

11. The General Administration of the State and the Autonomous Communities may establish agreements with NGOs, foundations and organizations dedicated to the protection of minors, in order to attribute ordinary guardianship of unaccompanied foreign minors.

Each agreement will specify the number of children whose custody undertakes to take the relevant institution, place of residence and materials that will go towards addressing them.

Shall be entitled to promote the formation of the autonomous community custody under whose custody the minor is located. For these purposes, you must contact the competent court to proceed according to the place where the child will reside, attaching the corresponding agreement and conformity of the entity that will assume the guardianship.

The protection scheme will be provided in the Civil Code and the Code of Civil Procedure. Shall also apply to unaccompanied foreign minors remaining child protection provisions contained in the Civil Code and existing legislation on the subject.

12. The Autonomous Communities may reach agreements with the autonomous communities where they are unaccompanied foreign minors to assume the guardianship and custody, in order to guarantee children a better standard of integration.

### **CHAPTER III**

#### **Of permits for-profit activities**

**(Heading amended by Organic Law 2 / 2009)**

**Article 36. Authorization of residence and work. (Prepared under the Organic Law 2 / 2009)**

1. Foreigners over sixteen specify, to exercise any gainful activity, employment or training, the prior administrative authorization to live and work. Work permits are granted in conjunction with the residence, except in cases of criminal aliens serving sentences or other exceptional circumstances specified in the regulations.

2. The effectiveness of work and residence permit initial discharge condition of the worker at Social Security. The Managing Body will check in each case the basis of enabling foreigners to live and carry out the activity.

3. If the alien is proposed to work for themselves or for others, exercising a profession for which special qualifications are required, the granting of the authorization is conditional upon the tenancy and, where appropriate, approval of the degree, and if the laws so so requires, to the licensing.

4. Recruitment of an alien, the employer must apply for authorization referred to in paragraph 1 of this article, which in any case must be accompanied by the employment contract that ensures a continuous activity during the duration of the authorization.

5. The lack of work and residence permit, notwithstanding the employer's responsibility to lead, including Social Security, not invalidate the contract of employment on workers' rights abroad, nor to preclude the obtaining of the benefits derived from the cases covered by international conventions protecting workers or others who would be entitled, provided they are compatible with their situation. In any case, the worker who has no residence and work authorization can not obtain unemployment benefits. Except where legally prescribed, the recognition of a benefit does not change the administrative status abroad.

6. In the initial grant of authorization to work may apply special criteria for certain nationalities under the principle of reciprocity.

7. Not be granted permission to reside and make a lucrative business, employment or training, to foreigners who, under a program for voluntary return to their country of origin, would have undertaken not to return to Spain for a specified period as there were no such period.

8. Regulations shall define the conditions and requirements to enable the participation of foreign workers in industrial corporations and cooperative societies.

### **Article 37. Authorization of residence and self-employment. (Prepared under the Organic Law 2 / 2009)**

1. For the realization of self-employed economic activities be credited with meeting all the requirements that the law requires citizens to the opening and

operation of the planned activity, as well as those relating to the adequacy of investment and development potential employment, among others established by regulation.

2. The initial authorization of residence and self-employment is limited to a geographical area not more than one Autonomous Community, as a business sector. Its duration is determined by regulation.

3. The granting of the original work be coordinated with that for the State on the residence, shall be the Autonomous Communities in accordance with the powers assumed in the relevant statutes.

**Article 38. Authorization of residence and gainful employment.  
(Prepared under the Organic Law 2 / 2009)**

1. For the initial grant of permission to reside and work in the case of employees, will take into account the national employment situation.

2. The national employment situation will be determined by the Public Employment Service with information provided by the autonomous communities and with those derived from official statistical indicators and will be reflected in the Catalog of difficult coverage. This catalog contains a list of jobs that can be met through the recruitment of foreign workers and would be adopted after consultation of the tripartite Labor Commission of Immigration.

It also means that the national employment situation allows recruitment in jobs not scheduled when the supply management is concluded insufficient suitable job seekers and available. Regulations shall define the minimum requirements to consider that the management of labor supply is considered sufficient for this purpose.

3. The procedure for granting residence permits and initial work, without prejudice to cases where the alien provided that he is in Spain was also required to apply for or obtain a residence permit and work are based on the application for coverage of a vacancy by an employer or employer before the competent authority together with the employment contract and other required documentation, provided the foreign worker residing in a third country. Verified compliance with the requirements, the competent authority shall issue a permit whose effectiveness is conditional on the foreigner requesting the visa and, once in Spain, produce high worker in Social Security.

4. The employer or employer shall communicate the withdrawal of the application for authorization if, as he resolved the authorization or approval, eliminating the need for recruitment from abroad or modifying the conditions of the employment contract that provided the basis for the request. Also, when enabled abroad was in Spain shall record in the Public Employment Services employment contract giving rise to formalize the application and discharge the worker at Social Security and could not be started if the employment relationship, the employer or employer is obliged to notify the competent

authorities.

5. The initial authorization of residence and work will be limited, except as provided for by law and in international agreements signed by Spain, to a certain territory and occupation. Its duration is determined by regulation.

6. The work and residence permit will be renewed when they expire:

a) When it persists or renew the contract of employment for which they were originally granted, or when there are a new contract.

b) Where the competent authority under the Social Security legislation, had been granted a contributory unemployment benefit.

c) if the alien is a beneficiary of an allowance for public assistance designed to achieve their social or occupational functioning.

d) Where there other circumstances stipulated by regulation, in particular the case of terminating the contract of employment or suspension of employment as a result of being a victim of gender violence.

7. From the first concession, permits granted without any limitation of geographic or occupation.

8. The granting of the original work be coordinated with that for the State on the residence, shall be the Autonomous Communities in accordance with the powers assumed in the relevant statutes.

**Article 38a. Special arrangements for researchers. (Added by Organic Law 2 / 2009)**

1. Will be considered a researcher abroad whose stay in Spain has the sole purpose or primary research projects as part of a hosting agreement signed with a research organization.

2. The entities involved in research, public or private, that meet the conditions provided by regulation, may be authorized by the State or by the autonomous communities, as appropriate, as research organizations to host foreign researchers. This authorization must be a minimum of five years except in exceptional cases be granted for a shorter period. If after the deadline had not been notified to the interested self-specific resolution, the application shall be deducted by him dismissed by administrative silence.

3. Regulations shall define the requirements for hosting agreement signed between the researcher and the research organization and conditions of the research project.

4. The situation abroad in solitary researcher will be to work and residence

permit, which will be renewed annually if the holder continues to satisfy the conditions for issuing the initial authorization.

5. Foreigners admitted for these purposes may teach or perform other activities consistent with its core activity of research in accordance with the rules in force.

6. The investigating body shall promptly inform, the Authority granted authorization to reside and work in any event likely to prevent implementation of the hosting agreement.

7. Any alien admitted as a researcher in another Member State of the European Union seeking to conduct part of its investigation in Spain for a period exceeding three months may apply for a residence permit and work and get it if it meets regulatory requirements for this, not being required visa, but may require a new hosting agreement.

8. Once the hosting agreement, or resolved through no fault of the researcher established by regulation, both the researcher and the reunited family shall be eligible to live and engage in gainful employment without a new visa.

**Article 38 ter. Residence and work of highly qualified professionals.  
(Added by Organic Law 2 / 2009)**

1. Be considered highly qualified professional for the purposes of this article to those accrediting higher education qualifications or, exceptionally, have a minimum of five years of professional experience that can be considered comparable in the terms specified in the regulations.

2. The highly qualified under this section shall obtain a residence permit and work documented by a EU blue card.

3. For the granting of licenses for highly qualified professionals may be taken into account the national employment situation and the need to protect the adequacy of human resources in the home country from abroad.

4. On the holder of the EU Blue Card who has resided at least eighteen months in another Member State of the Union, may obtain a permit in Spain and highly qualified professional. The application may be in Spain before the expiry of one month of their entry, or in the Member State where he is authorized. If the original authorization was extinguished without having resolved the application for approval in Spain, may be granted temporary residence permit for foreigners and members of his family. If extinguished the life of the original permit to remain in Spain or if the application is refused, the authorities may implement the measures legally prescribed for that situation. Should it proceed to his expulsion driving abroad you can run the Member State of which comes from.



5. Regulations shall define the conditions for granting and renewal of residence permit and work covered in this article.

**Article 39. Collective management hires in origin. (Prepared under the Organic Law 2 / 2009)**

1. The Ministry of Labor and Immigration, taking into account the national employment situation, adopt an annual estimate of occupations and, where appropriate, the figures laid down for jobs that can be met through the collective management of contracts in primary in a given period, those who have access only those not staying or residing in Spain. It may also provide a number of visas for job search on the terms to be determined, targeting children or grandchildren of Spanish origin or certain occupations. The above estimates take into account the proposals after consulting the social partners in their relevant field, be implemented by the Autonomous Communities, and will be taken after consultation of the tripartite Labor Commission of Immigration.

2. The procedure for granting initial authorization to reside and work through collective processing of contracts in origin, will be based on the simultaneous management of a plurality of authorization, submitted by one or more employers, to selected workers in their countries with the involvement, where appropriate, the competent authorities. In its management is acting in coordination with the Autonomous Communities responsible for granting the initial work authorization.

3. Job offers made through this procedure are targeted countries with which Spain has signed agreements on regulation of migration flows.

**Article 40. Assumptions specific exemption from the national employment situation. (Prepared under the Organic Law 2 / 2009)**

1. Not take into account the national employment situation where the contract of employment is aimed at:

a) The family regrouped working age or the spouse or child of alien resident in Spain with a renewed permit, and the son of Spanish citizen or citizens of other Member States of the European Union and other States party to the Area European Economic provided that the latter carrying at least one years residing legally in Spain and the child is not implementing the scheme.

b) The prior authorization holders wishing to work for renewal.

c) necessary for assembly workers for renovation of a facility or production equipment.

d) Individuals who have had the condition of refugees during the year following the cessation of the application of the Geneva Convention of 28 July 1951 on

the Status of Refugees, for the reasons set out in the course 5 Section C of Article 1.

e) Individuals who have been recognized as stateless persons and those who had lost the status of stateless persons the year following the termination of such status.

f) Foreigners who are responsible ascendants or descendants of Spanish nationality.

g) Foreign born and living in Spain.

h) The children or grandchildren of Spanish origin.

i) Foreign minors working age with residence permits that are protected by the child protection agency responsible for those activities that, at the discretion of that body, to promote their social integration, and once proven the impossibility of return to his family and country of origin.

j) Foreigners who obtain a residence permit for exceptional circumstances in cases specified in the regulations and in any case, when dealing with victims of gender violence or human trafficking.

k) Aliens who have held work permits for seasonal activities for two calendar years and have returned to their country.

l) Foreigners who have renounced their residence and work permit under a voluntary repatriation program.

2. Not be taken into account the national situation of employment, under the conditions specified in the regulations for:

a) Coverage of positions of trust and company managers.

b) highly skilled professionals, including technicians and scientists employed by public universities or research centers, development and innovation dependent companies, without prejudice to the specific authorization of force pursuant to this Act

c) Workers on the payroll of a company or group of companies in other countries striving to develop their work for the same company or group in Spain.

d) The renowned artists.

#### **Article 41. Exceptions to the work permit.**

1. Not necessary to obtain work authorization for the exercise of the following activities: (Prepared according to the Organic Law 8 / 2000)

a) The technical and foreign scientists invited or employed by the State, State government or local authorities or agencies aimed at promoting research and development initiated or participated mainly by the above. (Prepared under the Organic Law 14/2003)

b) foreign teachers invited or hired by a Spanish university.

c) Managers and foreign teachers, cultural and educational institutions dependent on other states or private, prestigious accredited, officially recognized by Spain in our country to develop cultural and educational programs in their respective countries, while limiting its activity to the implementation of such programs.

d) civilian or military officials of foreign state governments to come to Spain to carry out activities under cooperation agreements with the Spanish Administration.

e) The correspondents of mass media, foreign, accredited for the practice of information activity.

f) Members of international scientific missions and research work conducted in Spain, authorized by the state.

g) The artists who come to Spain to undertake specific actions not involving a continuing activity.

h) The ministers, religious or representatives of different churches and denominations, duly registered with the Register of Religious Entities, while limiting their activities to strictly religious functions.

i) Foreigners who are part of the representative bodies, government and administration of internationally recognized trade unions, provided they limit their activities to strictly trade union functions.

j) The working-age foreign children protected by the child protection agency responsible for those activities on a proposal of that body, while in this situation, facilitate their social integration. (Prepared in accordance with Organic Law 14/2003 and letter assignment amended by Organic Law 2 / 2009)

2. Regulations shall establish the procedure to prove the exception. In any case, this procedure is the same for both the public and staff of institutions or agencies participated mainly promoted by a public administration. (Prepared under the Organic Law 14/2003)

3. (Deleted by Act 2 / 2009)

**Article 42. Special scheme for seasonal workers. (Prepared under the Organic Law 2 / 2009)**

1. The Government regulations govern the work and residence permit for foreign workers in seasonal activities or campaign that allowed the entry and exit from national territory, as well as documentation of their status, according to the characteristics of these campaigns and the information provided by the Autonomous Communities where promoted.

2. For issuing residence and work permits must be ensured that temporary workers will be housed in dignity and hygiene.

3. The public authorities shall promote the attendance of appropriate social services.

4. The seasonal jobs are targeted countries with which Spain has signed agreements on regulation of migration flows.

5. The autonomous regions, municipalities and social partners will promote the circuits that allow the concatenation of the seasonal workers, in collaboration with the General State Administration.

6. Regulations shall define the conditions for workers employed by a company or group of companies developing their business in another country may be authorized to work temporarily in Spain for the same company or group.

**Article 43. Transnational commuters and service provision. (Prepared under the Organic Law 2 / 2009)**

1. Foreign workers who live in the border area, to develop its activities in Spain and return to their place of residence daily, they must obtain the appropriate authorization, the requirements and conditions that are granted general authorization regime, being applicable in As for social security rights as provided in Article 14.1 of the Act

2. Regulations shall establish the conditions for a residence permit and work in the frame of transnational service in accordance with current regulations.

**CHAPTER IV**

**Of charges for administrative licenses and processing of visa applications**

**(Heading amended by Act 14/2003)**

#### **Article 44. Taxable event. (Prepared under the Organic Law 2 / 2009)**

1. The rates are governed by this Act and other regulatory sources for the fees that are set out in Article 9 of Law No. 8 / 1989 of 13 April, on Public Fees and Prices.

2. It constitutes the taxable event processing rates of administrative permits and identity documents under this Act and its extensions, alterations and renovations, in particular:

- a) Processing of permits for extension of stay in Spain.
- b) the processing of authorizations to reside in Spain.
- c) The processing of work permits, except in the case of authorizations for a period less than six months.
- d) Processing of identity cards to foreigners.
- e) The processing of identity documents to illegal immigrants.
- f) Processing of visa.

#### **Article 45. Accrual. (Prepared under the Organic Law 2 / 2009)**

1. The fees shall be payable upon application for the authorization, extension, amendment, renewal, or visa.

In the case of the Autonomous Communities that have transferred the responsibility for a work permit, will account for the accrual of performance fees.

2. In cases of work and residence permit as an employee for domestic service workers partial or discontinuous nature, the accrual rate will occur at the time of membership and / or discharge the worker at Social Security.

3. In cases of renewal of residence permit and paid employment in the absence of employer, and in the case of domestic service workers partial or discontinuous nature, the accrual rate occurs at the time of high worker in Social Security.

4. The amount of fees shall be established by ministerial order of the competent departments. When the Autonomous Communities have transferred the responsibility for initial work authorization, they are governed by the legislation.

#### **Article 46. Taxpayers. (Prepared under the Organic Law 2 / 2009)**

1. Will be liable to charges of visa applicants and persons in whose favor the granting authorizations or documents issued under Article 44, except at authorizations of employed labor, in which case the employer or taxpayer employer, except in the course of labor relations in the domestic sector of partial or discontinuous nature, that it is the worker himself.
2. Agreement is void for which the employee assumes the obligation to pay all or part of the amount of fees.

#### **Article 47. Exemption. (Prepared under the Organic Law 2 / 2009)**

There shall be obliged to pay the fees for granting work permits for Latin American nationals, Filipinos, Andorra, Equatorial Guinea, the Sephardim, the children and grandchildren of Spanish or Spanish origin, and foreigners born in Spain when they intend to make a gainful employment, labor or professional self.

Visa applications lodged by nationals of third countries benefiting from EU law on free movement and residence shall be exempt from paying filing fees.

Public agencies child protection will be exempted from payment of fees for permits that are required to apply for them in the exercise of the legal representation of them hold.

In application of Community legislation on the subject, shall be exempt from paying the fee for transit visas or stay, children under six years, researchers from third countries traveling with scientific research on the terms set by Recommendation 2005/761/EC of the European Parliament and Council, and representatives of nonprofit organizations that are not over 25 years and will participate in seminars, conferences or educational or sporting events organized by non-profit organizations profit.

#### **Article 48. Amount of fees.**

1. The amount of fees shall be established by ministerial order of the competent departments, without prejudice to Community legislation concerning visa application procedures for transit or stay. (Prepared under the Organic Law 2 / 2009)
2. The rules which determine the amount of fees must be accompanied by a report on the economic and financial cost of the activity in question and the justification of the proposed amount, which shall be as laid down in Articles 7 and 19.2 of Law 8 / 1989 of 13 April. (Prepared under the Organic Law 8 / 2000)
3. Are considered essential elements and criteria of quantification may be

amended only by rule of the same rank, the following: (Prepared according to the Organic Law 14/2003)

a) In processing the visa application, the administrative costs of processing, limiting the effects of airport transit visa, duration of stay, the number of entries allowed, the character of the residence and, in appropriate, that is issued at the border. Also take into account additional costs that arise for issuing visas, where, at his request, be made use of procedures such as messaging, email, express mail, fax, telegram or telephone conference.

b) In granting authorization for extension of stay in Spain, the length of the extension.

c) The granting of residence permits, the duration of the authority and its permanent or temporary, and within the latter, the fact that this is the first or further concessions or renovations.

d) The granting of work permits, the duration of it, its size and scope, nature and modalities of the relationship as an employee and, where applicable, the amount of promised wages.

e) In issuing identity cards of foreigners, the duration of the authorization and the fact that this is the first or further concessions or renovations.

In any case, quantitative criteria will be rates on an individual or group of licenses, renewals, modifications or renewals.

4. The amounts of fees for processing the visa application will be appropriate for review by appropriate application of Community law. It will accommodate also the amount that may be established by applying the principle of reciprocity. (Prepared under the Organic Law 14/2003)

#### **Article 49. Management, collection and reverse.**

1. The management and collection of fees shall be for the bodies responsible for granting authorizations, alterations, renovations and extensions, the issuance of the documentation referred to in Article 44 and the processing of visa applications. (Prepared under the Organic Law 2 / 2009)

2. The rates taxpayers are required to practice self-assessment operations and make the income tax of the amount in the Treasury when specified by regulation. (Prepared under the Organic Law 8 / 2000)

### **TITLE III**

#### **Infringements on foreigners and its system of penalties**

## **Article 50. The sanctioning power.**

The exercise of disciplinary powers by the commission of administrative offenses provided for in this Act shall follow the provisions contained therein and its implementing provisions, and Law 30/1992 on the Legal Regime of Public Administrations and the Common Administrative Procedure

## **Article 51. Types of violations.**

1. Incur administrative responsibility who are perpetrators or participate in any of the offenses described in the following articles.
2. Administrative offenses specified in this Act are classified as minor, serious and very serious.

## **Article 52. Minor offenses.**

Minor offenses are:

- a) Failure or delay in communication to the Spanish authorities of changes of nationality, marital status or address, and other circumstances determining their employment status when they are required by applicable law. (Prepared under the Organic Law 8 / 2000)
- b) The delay, until three months, the application for renewal of licenses after they expired. (Prepared under the Organic Law 8 / 2000)
- c) Finding work in Spain without first seeking authorization to work for themselves, when there are temporary residence permit. (Prepared under the Organic Law 8 / 2000)
- d) To be working in an occupation, industry or geographical area not covered by the authorization of residence and work which he owns. (Added by Organic Law 2 / 2009)
- e) The hiring of workers whose authorization not enable them to work in that occupation or geographic scope, avoiding an infringement for each of the foreign workers employed. (Added by Organic Law 2 / 2009)

## **Article 53. Serious infringements. (Prepared under the Organic Law 2 / 2009)**

1. Are serious infractions:

- a) found irregularities in Spanish territory, for failing to obtain an extension of



stay, lack of authorization of residence or have lapsed more than three months to such authorization, provided that the person concerned has applied for a renewal of the license on time regulations.

b) Finding work in Spain without having obtained a work permit or prior administrative authorization to work, if not have a valid residence permit.

c) Engaging in fraudulent concealment or serious misrepresentation in meeting the obligation to inform the competent authorities of changes affecting nationality, marital status or address, and guilty of misrepresentation in the statement of the compulsory to complete the high in the municipal register for the purposes specified in this Law, provided that such act constitutes an offense. When any authority was aware of a potential breach of this cause shall inform the competent authorities in order that it may instruct the appropriate sanctioning procedure.

d) Failure of the measures imposed on grounds of public safety, for regular or separation from villages borders or singularly concretized in accordance with the provisions of this Law

e) The commission third minor offense, provided that within a year earlier had been banned for two minor forms of the same nature.

f) Participation abroad in activities contrary to public policy as serious under the Organic Law 1 / 1992 of 21 February on Protection of Public Safety.

g) Outputs from the Spanish territory is not eligible for office, without displaying the documentation provided by law or in contravention of the prohibitions imposed.

h) To renege on the obligation under paragraph 2 of Article 4.

2. They are also serious infringements:

a) Do not enlist in the Social Security Scheme, as appropriate, the foreign worker whose residence permit and paid work have been applied, or not to register the contract of employment under the conditions that formed the basis for the request, where the employer is satisfied that the worker is legally in Spain enabled the start of employment. However, be relieved of this responsibility the employer to notify the competent authorities occurring concurrent reasons that might endanger the viability of the target company or, under the law, prevent the onset of the relationship.

b) marriage, simulate analogous affective relationship or constitute legal representative of a minor, when such conduct is made for profit or for the purpose of improperly obtaining a right of residence, provided that such act constitutes an offense.

c) Promote the irregular stay of a foreigner in Spain, where legal entry has received an express invitation of the offender and continue to charge after the time period allowed by your visa or authorization. To graduate the penalty shall take into account the concurrent personal and family circumstances.

d) To accept the entry of an alien in the Municipal by the owner of a home prepared for that purpose, where such housing would not constitute real home from abroad. A violation is incurred for every person improperly entered.

**Article 54. Very serious infringements. (Prepared under the Organic Law 2 / 2009)**

1. They are very serious infringements:

a) Participate in activities prejudicial to national security or that could damage Spain's relations with other countries, or be involved in activities contrary to public policy as very serious under the Organic Law 1 / 1992 of 21 February Protection of Public Safety.

b) induce, promote, encourage or facilitate profit, individually or as part of an organization, illegal immigration of persons in transit or destined for the Spanish territory or remaining therein, provided that the act constitutes an offense.

c) Conducting behavior discrimination on racial, ethnic, national or religious grounds, as provided in Article 23 of this Law, provided that the act constitutes an offense.

d) The recruitment of foreign workers without having obtained prior authorization of residence and work, avoiding an infringement for each foreign worker employed, provided that the act constitutes an offense.

e) Conduct, with profit, the offense provided for in subparagraph d) of paragraph 2 of the preceding article.

f) To simulate the working relationship with a foreigner, where such conduct is made for profit or for the purpose of improperly obtaining rights under this Law, provided that such act constitutes an offense.

g) the commission of a third serious offense if within a year earlier had been banned for two serious errors of the same nature.

2. They are also very serious infringements:

a) Breach of obligations provided for carriers in Article 66, paragraphs 1 and 2.

b) The transport of foreign nationals by air, sea or land, to Spanish territory by

the parties responsible for transport, but they had checked the validity and relevance, both of passports, travel documents or identity papers relevant as, where applicable, the appropriate visa, of which shall be those foreign holders.

c) Breach of the obligation of carriers to take over without loss of time or transported from abroad, for deficiencies in the documentation cited above, has not been authorized to enter Spain and abroad transported in transit not has been transferred to their country of destination or had been returned by the authorities of this, by not permitting the entry. This obligation shall include the cost of maintenance of that abroad and, if so requested by the control authorities of entry, associated with transportation of such aliens, which must be granted immediately, either through the company subject to penalties or alternatively, by another carrier, with direction from the State which has been transported to the State which issued the travel document with which he has traveled or any other state where you are guaranteed admittance.

3. Notwithstanding the preceding paragraphs shall not be considered infringement of this Law carry the fact to the Spanish border to an alien who, having presented without delay its request for international protection, it will be inadmissible, pursuant to the provisions of Law 12/2009, of 30 October on the right of asylum and subsidiary protection.

### **Article 55. Penalties. (Prepared under the Organic Law 2 / 2009)**

1. The offenses described in the preceding articles shall be punished as follows:

a) Minor offenses with fines of up to 500 euros.

b) The serious violations with a fine from 501 up to 10,000 euros. In the case referred to in Article 53.2) of this Act, in addition to the penalty specified, the employer will also be required to bear the costs of travel.

c) serious violations with a fine from 10,001 to 100,000 euros, except as provided in Article 54.2.b), which shall be a fine of 5,000 to 10,000 euros per passenger transported or with a minimum of 750,000 euros at a flat rate regardless of the number of passengers. The under Article 54.2.a) in relation to Article 66.1 shall be a fine of 10,001 up to 100,000 euros for each journey for not communicated data of persons carried or had them drawn incorrectly reported, regardless of governmental authority be taken by the detention, seizure and confiscation of the means of transportation or temporary suspension or withdrawal of the operating permit.

2. The imposition of penalties for administrative offenses provided for in this Act is for the Government Sub Delegate of the Government or in the province Autonomous Community. When an autonomous community has assigned responsibility for initial work authorization of foreign imposition of the penalties provided in this Law in case of breaches referred to the following paragraph

shall be the Autonomous Community and shall be exercised by the Authority that the shall determine, within the scope of its powers. In the cases classified as minor infringements of article 52.c), d) e) Article 53.1.b serious), and 53.2), and very serious article 54.1.d) and f) disciplinary proceedings be initiated by act of the Inspectorate of Labor and Social Security, in accordance with the provisions of the penal procedure for breaches of social order, corresponding to the imposition of sanctions on the authorities referred to in the preceding paragraph.

In the case of participation in activities prejudicial to national security or that could damage Spain's relations with other countries, under Article 54.1.a) in accordance with the provisions of the penal procedure determined by regulation, the power to impose penalties correspond to the Secretary of State for Security.

3. For the graduation of sanctions, the competent body will adjust to impose proportionality criteria, assessing the degree of culpability and, where appropriate, the damage or the risk arising from the infringement and its significance.

4. To determine the amount of the penalty shall in particular take into account the economic capacity of the offender.

5. Unless you belong to a third party not liable for the infringement, in the case of point b) of paragraph 1 of Article 54 shall be subject to forfeiture of vehicles, boats, aircraft, and other property movable or immovable, of any nature they are, have served as an instrument to commit that offense.

To ensure the effectiveness of confiscation, property, effects and instruments referred to in the preceding paragraph may be seized and made available to the governmental authorities from early interventions, as a result of the sanctioning procedure that will decide what is pertinent in relation with confiscated property.

6. In the course of the offense provided for in subparagraph d) of paragraph 1 of Article 54 of this Law, the governing authority may, subject to the appropriate penalty, the closure of establishments or premises from six months to five years.

7. If an offense punishable under Articles 52.e) or 54.1.d) of this Act was a subcontractor to another company, the main contractor and any intermediate subcontractors who knew that the company employing foreigners sanctioned without the corresponding authorization, shall be liable, jointly and severally, whether economic sanctions resulting from the sanctions, as other liabilities arising from such facts that apply to employers with government authorities or with the employee. The intermediate contractor or subcontractor shall not be held responsible if due diligence had been met as defined in fulfilling its contractual obligations.

## **Article 56. Prescription of offenses and penalties.**

1. The very serious infractions expire after three years, serious to light two years and six months.
2. The sanctions imposed for very serious offenses barred after five years, the grave two years and those imposed for minor breaches per year.
3. If the penalty imposed was the national expulsion prescription shall begin until after the entry prohibition period set by resolution with a maximum of ten years.

**Article 57. Expulsion. (Prepared under the Organic Law 2 / 2009)**

1. When the offenders are foreigners and carry out the behaviors classified as very serious or serious behavior than those provided for in paragraphs a), b), c), d) and f) of Article 53.1 of this Act, may apply in response the principle of proportionality, rather than a fine, the Spanish expulsion, after the processing of the corresponding administrative and reasoned decision by the facts that values that shape the offense.
2. It would also be cause for expulsion, after processing the file for which the alien has been convicted within or outside of Spain, which constitutes willful misconduct in our country offense punishable by imprisonment exceeding one year, unless the criminal records had been canceled.
3. In no case may jointly impose sanctions and fines removal.
4. The expulsion will result in all cases, the extinction of any permission to remain legally in Spain, and the file of any procedure as it would be an authorization to reside or work abroad in Spain expelled. However, expulsion may be revoked in the circumstances determined by regulation. In the case of the offenses described in subparagraphs a) and b) of Article 53.1 of this Act, unless there are reasons of public order or national security, if the alien was holding a valid residence permit issued by another Member State be warned, by diligence in their passport, required to go immediately to the territory of that State. If this warning does not comply examine the case of expulsion.
5. The sanction of expulsion shall not be imposed unless the infringement is envisaged in Article 54, point a) of paragraph 1, or involves a recurrence in the commission, in a period of one year of a breach of the same nature punishable by expulsion of foreigners who are in the following cases:
  - a) Those born in Spain who have resided legally in the past five years.
  - b) Residents of long duration. Before the decision to expel a long-term resident, you must take into account the time of his residence in Spain and the links

created, their age, the consequences for that person and their family members, and links with the country they will be expelled.

c) Those who have been of Spanish origin and had lost their Spanish nationality.

d) Those who are recipients of benefits for permanent incapacity to work following an industrial accident or occupational disease occurred in Spain, as well as drawing a contributory unemployment benefit or are beneficiaries of an economic benefit of public welfare aimed at achieving social integration or reintegration or work.

Neither may be imposed or, where appropriate, implement the sanction of expulsion of the alien spouse who is in one of the situations outlined above and who has resided legally in Spain for more than two years, or to their ancestors and small children; or older with disabilities who are objectively unable to provide for their own needs because of his health, which are dependent on them.

6. The expulsion can not be performed when it violates the principle of non-refoulement, or affects pregnant women, where the measure may entail a risk for the pregnancy or the health of the mother.

7. a) If a foreigner is accused or charged in court proceedings for a crime or misdemeanor for which the law provides for a term of imprisonment less than six years or a penalty of a different nature, and stating that fact shows in the administrative file expulsion in the shortest time possible and in any case not exceeding three days, the judge, after hearing the prosecutor, unless the authority, giving reasons, appreciate the existence of circumstances which justify its refusal.

In the event that the foreigner is subject to several criminal cases handled in different courts, and recorded these facts established in the administrative record of expulsion, the governing authority of all of them urge the authorization referred to above.

b) Notwithstanding the provisions in paragraph a) above, the judge may, on application and hearing the prosecutor, the departure of a foreigner from Spanish territory in the manner prescribed by the Criminal Procedure Act.

c) shall not apply the provisions contained in the preceding paragraphs in respect of crimes under Articles 312.1, 313.1 and 318 bis of the Penal Code.

8. When foreigners, residents or not, have been convicted for conduct offenses under Articles 312.1, 313.1 and 318 bis of the Penal Code, the expulsion will take effect after serving their prison sentence.

9. The resolution of expulsion must be notified to the applicant, indicating the

resources against it can bring, before the organ to be submitted and deadline for submission.

10. In the case of expulsion of a long-term resident of another Member State of the European Union is currently in Spain, this removal may only take place outside the territory of the Union when the offense is one of those referred to in Articles 53.1. d) f) and 54.1.a) and b) of this Act, and must be consulted regarding the competent authorities of that Member State so prior to the adoption of the decision of expulsion. Failure to meet these requirements for the expulsion takes place outside the territory of the Union, it shall be the Member State which recognized the long-term residence.

### **Article 58. Effects of refoulement. (Prepared under the Organic Law 2 / 2009)**

1. The expulsion will entail the prohibition of entry into Spanish territory. The period of prohibition shall be determined in consideration of the circumstances surrounding each case and its validity shall not exceed five years.

2. Exceptionally, if the alien poses a serious threat to public order, public security, national security or public health may be imposed a period of prohibition of entry of up to ten years.

In the circumstances prescribed by regulation, the competent authority shall not impose the ban of entry where the alien had left the country during the pendency of an administrative penalty for any of the situations described in a) and b) of Article 53.1 of this Act, or revoke the visa ban imposed for the same reasons, when the foreigners leave the country within a period of voluntary compliance under the expulsion order.

3. Need not expulsion proceedings for the return of foreigners in the following cases:

a) Those who, having been expelled in violation of the prohibition of entry into Spain.

b) who seeks to enter the country illegally.

4. Where to formalize a request for international protection for people who are in any of the cases mentioned in the previous paragraph may not take place until the return has been decided admissibility of the petition admissible, in accordance with international protection standards.

They may not be returned for pregnant women when the measure could pose a risk to the pregnancy or the health of the mother.

5. A refund will be granted by the competent governmental authority for expulsion.

6. When the refund could not be executed within 72 hours, will be sought from

the judiciary the detention order provided for the records of expulsion.

7. The return agreed in paragraph a) of paragraph 3 of this rule will result in the resumption of calculating the period of prohibition of entry that had agreed to the deportation order violated. Likewise, any refund agreed under paragraph b) of that paragraph of this article shall entail the prohibition of entry into Spanish territory for a maximum period of three years.

**Article 59. Collaborating organized networks. (Prepared under the Organic Law 2 / 2009)**

1. An alien who is illegally in Spain and is the victim, injured or witnessed an act of smuggling of human beings, illegal immigration, labor exploitation or trafficking for labor exploitation or prostitution of abusing his need , may be exempted from administrative and will not be deported if you report to the authors or cooperators of such traffic, or cooperates and collaborates with the competent authorities, providing essential information or giving evidence, if any, in the corresponding process against those authors.

2. Competent administrative bodies responsible for investigating the sanctioning procedure inform the person concerned about the provisions of this article in order to decide whether it intends to make this path, and make an appropriate proposal to the authority to be resolved, which may grant a provisional residence permit for work abroad, according to the procedure laid down by regulation.

The instructor informed the sanctioning procedure of the proceedings in relation to this paragraph to the authority responsible for investigating the criminal proceedings.

3. Foreigners who have been exempted from administrative liability they may provide, at its option, the assisted return to their country of origin or residence and work permit in exceptional circumstances, and facilities for their social integration, in accordance with in this Act to ensure, where appropriate, for their safety and protection.

4. When the prosecutor becomes aware that a foreigner, against which it has issued an expulsion order to appear in criminal proceedings as a victim, injured party or witness, and considers their presence essential to the practice of judicial proceedings, it will show up the competent government authority to assess the non-performance of his expulsion and, assuming that the latter had been executed, the same shall apply for purposes of authorizing his return to Spain for the time necessary to practice the precise steps , notwithstanding that they may adopt some of the measures provided for in Organic Law 19/1994, of 23 December on the protection of witnesses and experts in criminal cases.

5. The estimates of this Article shall also apply to foreign minors must be taken into account in the procedure the age and maturity of these and, in any case, the prevalence of the overriding interest of the child.



6. Regulations shall develop the conditions for cooperation of non-governmental non-profit aimed at the reception and protection of victims of the offenses described in the first paragraph.

**Article 59a. Victims of human trafficking. (Added by Organic Law 2 / 2009)**

1. The competent authorities shall take the necessary steps to identify victims of trafficking as provided in Article 10 of the Council of Europe Convention on Action against Trafficking in Human Beings of 16 May 2005.

2. The administrative bodies responsible for the investigation of the disciplinary proceedings, where it considers there are reasonable grounds for believing that an alien in an irregular situation has been the victim of human trafficking, inform the person concerned about the provisions of this Article and to raise competent authority for the timely resolution proposal on the allocation of a recovery and reflection period, according to the procedure laid down by regulation.

The recovery and reflection period will last at least thirty days and must be sufficient to allow the victim to decide whether to cooperate with authorities in the investigation of crime and, where appropriate, in criminal proceedings. During this period he was allowed a temporary stay and be stopped sanctioning administrative record that he had filed or, where appropriate, implementation of the expulsion or return eventually agreed. Also during this period the competent authorities shall ensure the subsistence and, if required, the safety and security of the person concerned.

3. The recovery and reflection period may be denied or revoked for reasons of public order or where there is knowledge of the victim's condition was invoked improperly.

4. The competent authority may exempt the victim of administrative responsibility and may provide, at its option, the assisted return to their country of origin or residence and work permit in exceptional circumstances where this is required because of their cooperation the purpose of investigation or criminal proceedings, or in response to their personal situation, and facilities for their social integration in accordance with the provisions of this Law also is resolved in the authorization procedure for residence and work exceptional circumstances, you may grant provisional authorization to reside and work in the terms specified in the regulations.

In the processing of authorizations referred to in the preceding paragraph may be exempted from the provision of those documents whose production endangers the victim.

5. The estimates of this Article shall also apply to foreign persons under age, to be taken into account the age and maturity of these and, in any case, the prevalence of child's best interests.

6. Regulations shall develop the conditions for cooperation of non-governmental non-profit aimed at the reception and protection of victims of human trafficking.

**Article 60. Effect of refusal of entry. (Prepared under the Organic Law 2 / 2009)**

1. The aliens who are refused border entry as provided by Article 26.2 of this Law shall be obliged to return to its point of origin.

The resolution of the refusal of entry will lead to the immediate adoption of measures necessary for the alien to return in the shortest time possible. When the return would be delayed more than seventy-two hours, the authority had refused entry shall be addressed to the Coroner to determine the location where they are being detained until then.

2. The places of detention for foreigners are not to be penal, and shall be equipped with social services, legal, cultural and health. Foreigners are admitted only deprived of the right clinic.

3. Abroad during their internment will be at all times available to the judicial authority who authorized, whichever communicate to it by the governing authority any circumstances in relation to the situation of foreign inmates.

4. The detention of an alien for purposes of proceeding to return because of the refusal of entry shall be communicated to the Ministry of Foreign Affairs and the embassy or consulate in your country.

**Article 61. Precautionary measures.**

1. From the time of instituting disciplinary proceedings in which it can be proposed removal, the instructor, to ensure that the final decision would lie, may take any of the following precautionary measures: (Established under Act 11 / 2003)

a) Periodic with the relevant authorities.

b) compulsory residence in a particular place.

c) Withdrawal of passport or document showing their nationality, on delivery receipt proving the interest of any such measure.

d) Detention precaution, by the governing authority or its agents, for a maximum period of seventy-two hours prior to the application for admission. In all other cases of arrest, remand in custody shall be produced in a period not exceeding seventy-two hours.

e) preventive detention, prior judicial authorization in the centers.

f) Any other relief the court deems appropriate and sufficient. (Added by Organic Law 2 / 2009)

2. In the penalty proceedings in the commission of violations by operators if they violate the duty to take charge of illegally transported abroad, may be agreed to suspend its activities, the provision of security, guarantees, or immobilization of the means of transport used. (Prepared under the Organic Law 8 / 2000)

## **62. Join in detention centers. (Prepared under the Organic Law 2 / 2009)**

1. Brought the case on any of the situations described in a) and b) of Article 54.1, subparagraphs a), d) and f) of Article 53.1 and Article 57.2 of this Act where expulsion may be proposed Spanish, the instructor may request the competent Magistrate income available to the alien in a detention center pending the processing of the file carries out sanctions. The judge, after hearing and the prosecutor, be settled by reasoned order, which, according to the principle of proportionality, take into consideration the circumstances and in particular, the risk of unavailability due to lack of domicile or identification documentation, actions designed to hinder foreign or avoid expulsion, and the existence of prior convictions or administrative penalties and other criminal penalties or administrative proceedings pending. Also, in case of serious illness from abroad, the judge will assess the risk of detention for public health or the health of the foreigner.

2. Detention shall be maintained for the time necessary for the purposes of record, and its maximum duration of 60 days and without being able to remember a new placement for any of the grounds provided in a single file.

3. When they no longer met the conditions described in paragraph 1, the alien is released immediately by the administrative authority who has the office, giving notice of the judge who authorized his detention. Similarly, and for the same reasons, shall be ordered to internment and the immediate release of the alien by the judge, ex officio or initiative or the prosecuting party.

4. You may not remember the placement of minors in detention centers, without prejudice to the provisions of Article 62a 1. i) of this Act The unaccompanied foreign minors who are in Spain will be made available to public entities under Child Protection Act establishes the Legal Protection of Minors and according to the rules laid down in Article 35 of this Act

5. The initiation of the case, the precautionary measures of detention and internment and the final resolution of the case of expulsion of the alien shall be

communicated to the Ministry of Foreign Affairs and the embassy or consulate in your country.

6. For the purposes of this article, the judge responsible for licensing and, if necessary, reverse the placement will be the examining magistrate of the place of detention practices. The judge responsible for monitoring the stay of foreigners in detention centers and the Chambers of Rejection of borders, the Judge of Instruction to where they are located must be designated a specific court in those judicial districts where there several. This court will know, without further action on the requests and complaints raised by inmates as they affect fundamental rights. Also, you can visit such centers if he knows any serious breach or when otherwise appropriate.

Article 62a. Rights of foreigners admitted. (Added by Organic Law 14/2003 and prepared according to the Organic Law 2 / 2009)

1. The centers for foreigners are not public establishments prison, the entry and stay in the same fi tionalty will only preventive and precautionary, safeguarding the rights and freedoms under the law, no limitations other than those provided to their freedom of movement according to content and purpose of a judicial admission agreed. In particular, the alien held in detention have the following rights:

a) To be informed of their situation.

b) measures to ensure respect for their life, physical integrity and health, but may not under any circumstances be subjected to degrading treatment or maltreatment of word or deed and to be preserved their dignity and privacy.

c) To facilitate the exercise of the rights recognized by law without restrictions other than those arising from their internment.

d) To receive adequate medical and health care and be assisted by social services center.

e) To communicate immediately to the person designated in Spain and his lawyer in the middle income and to the consular office in the country of nationality.

f) To be assisted by counsel, to be provided automatically where appropriate, to communicate confidentially with the same, even outside the general school schedule, where the urgency of the situation so warrants.

g) To communicate the schedule established in the middle, with their families, their country's consular officials or other persons may be restricted only by court order.

h) to have an interpreter if you do not understand or speak Castilian and for free, if it had no financial means.

i) To have in his company for their minor children, provided that the prosecution may measure and report favorably on the center modules exist to ensure the unity and family privacy.

j) contact with NGOs and national agencies, international and nongovernmental organizations to protect immigrants.

2. The service centers provide health and social care with adequate staffing. The conditions for the provision of these services will develop regulations.

3. The organizations constituted in Spain for the defense of immigrants and the relevant international agencies will visit places of detention, the regulations will be developed the same conditions.

**Article 62b. Duties of foreign inmates. (Added by Organic Law 14/2003 and prepared according to the Organic Law 2 / 2009)**

The alien held in detention shall be required:

a) To remain in the center available to the examining magistrate who has authorized their entry.

b) To observe the rules that govern the center and meet the general instructions given by management and the individuals they receive from officials in the legitimate exercise of its functions, aimed at maintaining order and security within it, and those relating to their own toilet and hygiene and cleanliness of the center.

c) To maintain proper civic activity and compliance with government officials and employees of the center, with visitors and other aliens detained by refraining from insults or threats thereof, or to promote or intervene in assaults, fights, disorderly and other individual or collective acts that alter coexistence.

d) To maintain the good condition of physical facilities, furniture and other effects of the center, avoiding damage or deliberate deactivation, both of them as of property or belongings of other aliens admitted or officials.

e) To submit to medical examination on entry and exit from the center, and in those cases where, for reasons of collective health, assessed by the medical service, and request, as provided by the center's director.

**Article 62 quater. Information and complaints. (Added by Organic Law 14/2003)**

1. Foreigners receive their admission to the Institute written information about their rights and obligations, the general organizational matters, the center's

operating rules, disciplinary rules and the means to make requests or complaints. The information will be provided in a language they understand.

2. Internees may make oral or written requests and complaints on matters relating to their situation of detention. Such requests or complaints may also be submitted to the director of the center, which will serve if they are responsible or shall inform the competent authority otherwise.

#### **Article 62 Bd. Safety measures. (Added by Organic Law 14/2003)**

1. The performances of internal security and surveillance facilities may involve, in the manner and periodicity to be established, inspections of local agencies and where necessary for safety in schools records of people, clothes and belongings of foreign inmates.

2. It may use personal means of physical restraint or detention of the offender separation in a single room to prevent acts of violence or injury to foreign acts to prevent leakage, damage to the facilities of the center or to the staff of the resistance in the legitimate exercise from office. The use of means of containment will be proportionate to the aim pursued, a penalty shall not result in disguised and are only used when there is no other less burdensome way to achieve the aim pursued and the time necessary.

3. The use of means of containment will be previously authorized by the head of school, unless considerations of urgency do not permit, in which case it will be their knowledge immediately. The principal shall communicate as soon as possible to the judicial authority that authorized the adoption placement and removal of physical containment media personnel with detailed expression of the facts which gave rise to such use and the circumstances that could advise maintenance. The judge, in the shortest time possible and whenever the separation preventive measure agreed regardless of the offender, shall if in force, agree on its continuation or repeal.

#### **Article 62 sexies. Operation and internal system of detention centers for foreigners. (Added by Organic Law 14/2003)**

In every foreign detention center will be a director responsible for its operation for which it must take the necessary organizational guidelines, coordinating and overseeing their implementation. It will also be responsible for taking necessary measures to ensure order and good coexistence between foreigners and enforce their rights, and the imposition of measures to inmates who do not respect the principles of good living or internal system.

#### **63. Preferred procedure. (Prepared under the Organic Law 2 / 2009)**

1. Opened the file in which to propose the expulsion for being one of the cases

referred to in Article 53.1.d) 53.1.f) 54.1.a) 54.1.b), and 57.2, the processing of the character will Preferred.

Similarly, the preferred procedure applies when, in the case of the offenses listed in subparagraph a) of paragraph 1 of Article 53 shall be given one of the following circumstances:

a) risk of default.

b) the alien avoids or hampers the expulsion, without prejudice to the proceedings in exercise of their rights.

c) abroad represent a risk to public order, public safety or national security.

In these cases did not fit the grant of voluntary departure period.

2. During the processing of the preferred procedure and in the implementation phase of expulsion that had fallen, may be taken precautionary measures and placement of Articles 61 and 62.

3. It guarantees the right to legal assistance from abroad, which will be provided automatically, if necessary, and be assisted by an interpreter, if not understand or speak Castilian, and free in the event that lacked financial means.

4. Initiate the file will transfer to the initiation of the agreement concerned duly reasoned, written for claiming what is appropriate, within 48 hours, warning of the consequences of not doing so.

5. If the person concerned or his representative fails to make allegations or perform testing proposition on the contents of the agreement of initiation, or if not supported, by inappropriate or unnecessary, with reasons, by the evidence offered by the instructor, without changing the rating of the facts, the agreement to initiate the file will be considered as a proposed resolution with reference to the authority competent to decide.

Estimate the offer of proof, this is made within three days.

6. In the case of a) and b) of paragraph 1 of Article 53 if the alien establishes that he has previously called for a temporary residence permit as provided in Article 31.3 of the Act, the court handling the suspended expulsion same pending resolution of the application, the continuation of the file in case of refusal.

7. The execution of the deportation order in cases under this article shall be implemented immediately.

**Article 63a. Standard procedure. (Added by Organic Law 2 / 2009)**

1. When expulsion is processed for cases other than those provided for in Article 63 the procedure will be the regular.

2. The resolution is adopted expulsion processed through the normal procedure will include a period of voluntary compliance that the teacher leave the country. The duration of the period ranging between seven and thirty days and shall begin from the time of notification of the resolution. The deadline for voluntary compliance with the expulsion order may be extended for a reasonable time in light of the circumstances surrounding each case, such as the length of stay, be in charge of children in school or the existence of other links family and society.

3. Both the stage of the procedure and during the period of voluntary compliance may be taken one or more of the precautionary measures laid down in Article 61, except for detention under point e).

**Article 64. Enforcement of the expulsion. (Prepared under the Organic Law 2 / 2009)**

1. Expiry of the voluntary compliance without the alien has left the country, there will be arrest and driving up the post of laying out to encash the expulsion. If the expulsion could not be executed within seventy-two hours, you can request the detention on regulated in previous articles, not exceeding the period established in Article 62 of this Law

2. Both in the case of extension of the deadline for voluntary compliance as a deferral or suspension of execution of the expulsion, as demonstrated in document duly notified to the interested party will be considered the guarantee for the foreign affected:

a) The maintenance of the household with members who are in Spanish territory.

b) Provision of emergency health care and basic treatment of diseases.

c) Access to minors, according to the duration of their stay, the basic education system.

d) The special needs of vulnerable people.

3. The execution of the expulsion order shall, as appropriate, at the expense of the employer who had been prosecuted for offenses under Article 53.2 a) or 54.1.d) of this Act or, in other cases, to Coast abroad if he has financial means to do so. In the absence none of these conditions shall be communicated to the diplomatic or consular representative of his country, appropriate purposes.

4. When a foreigner is arrested in Spanish territory and is found against him



has been issued a removal order by a member of the European Union, immediately proceed to execute the resolution, without having to initiate a new dossier of expulsion. It may request authorization from the investigating judge for entry into a detention center in order to ensure the implementation of the sanction of expulsion, in accordance with the provisions of this Law

5. It suspended the execution of the deportation order when a request is formalized international protection until it is inadmissible for pending or resolved in accordance with the rules of international protection.

6. It would require the initiation of expulsion proceedings:

a) for the purpose of transfer, escorted by officials of international protection seekers whose applications have been declared inadmissible admissible under Law 12/2009, of 30 October on the right of asylum and subsidiary protection, to be another State responsible for examining the application, in accordance with international conventions to which Spain is part, if transfer occurs within the time that the responsible State has the obligation to proceed to consideration of the application.

b) for the purpose of transfer, escorted by officials, handling, or receiving, keeping and forwarding travel documents for foreigners to conduct a transit in Spanish territory at the request of a Member State of the European Union, for the purposes of repatriation or removal by air.

#### **Article 65. Actionable nature of the resolutions on foreigners. (Prepared under the Organic Law 8 / 2000)**

1. Punitive administrative decisions may be appealed under the provisions of the laws. The system of enforceability of the rule is generally anticipated.

2. In any case, if the foreigner is not in Spain, may make the resources provided, both in administrative and legal means, through diplomatic or consular representations concerned, who shall send the competent body.

#### **Article 66. Obligations of carriers.**

1. When so determined by the Spanish authorities on the routes from outside the Schengen area in which the intensity of migration flows makes it necessary, in order to combat illegal immigration and public safety, any company, transportation company or carrier shall be obliged, upon completion of loading and before departure of the conveyance, to refer to the Spanish authorities responsible for controlling the entry of information on passengers who are to be moved, either by air, sea or land, and regardless of whether transportation is in transit or final destination, the Spanish territory. (Prepared under the Organic Law 14/2003)

The information will be transmitted by computer, or, if this is not possible by any other appropriate means, and be understanding of the name of each

passenger, date of birth, nationality, passport number or travel document prove your identity and type of the step of entry, code of transport, departure and arrival of transport, total number of passengers carried, and initial point of embarkation. The authorities responsible for controlling the entry data stored in a temporary file, removing them upon entry and within twenty-four hours after transmission, except in the performance needs of their duties. Carriers must be informed of this procedure for the passengers, being forced to delete the data within the same clock. (Prepared under the Organic Law 2 / 2009)

2. All company, transportation company or carrier shall be obliged to send to the Spanish authorities responsible for controlling the entry comprehensive information on the number of unused return tickets to passengers who previously had been transported to Spain, either by air, sea or land, and regardless of whether transportation is in transit or final destination of routes from outside the Schengen Area.

When so determined by the Spanish authorities, under the terms and for the purposes indicated in the preceding paragraph, the information must include, in addition to non-national passenger European Union, the European Economic Area or countries with which there is an international convention extend the rules set for the citizens of those States, the name of each passenger, date of birth, nationality, passport number or travel document attesting to their identity.

The information identified in this paragraph must be submitted no later than 48 hours after the expiration date of the ticket. (Prepared under the Organic Law 14/2003)

3. Similarly, any company, transportation company or carrier must: (Prepared according to the Organic Law 14/2003)

a) Make the proper test of the validity and effectiveness of both passports, travel documents or identity papers relevant as, if necessary, the appropriate visa which will be in possession of foreigners.

b) to take over immediately from abroad who had moved to the border air, sea or land for the Spanish territory, if he been denied entry by deficiencies in the documentation necessary for crossing borders.

c) Be responsible to a foreigner who has been transferred in transit to a border air, sea or land from the Spanish territory, if the carrier who must bring it to its destination country refused to ship it, or if the authorities of that country have refused him entry and have sent him back to the Spanish border that has passed.

d) Transporting aliens referred to in paragraphs b) and c) of this section to the state from which it is transported either to the State which issued the travel document with which he has traveled, or to any other State to ensure their admission and treatment compatible with human rights.

The company, transportation company or carrier who has the care of an alien under any of the cases provided in this paragraph shall ensure both adequate living conditions as a dependent.

4. Nothing in this Article is also the case in which air or sea transportation is done from Ceuta and Melilla to any other point on Spanish territory. (Prepared under the Organic Law 14/2003)

#### **TITLE IV**

##### **Coordination of public authorities**

##### **(Heading amended by Organic Law 8 / 2000)**

#### **Article 67. Coordination of the organs of state administration.**

1. The Government will carry out continuous observation of the magnitude and most significant features of immigration in order to analyze its impact on Spanish society and providing objective information and verified that prevents or hinders the emergence of xenophobic or racist currents.

2. The provincial government offices consolidated into existing services under the various organs of the State Administration with expertise in immigration, in order to achieve effective coordination of administrative action.

3. The Government will develop plans, programs and guidelines on the conduct of the Labor Inspectorate prior to an infringement procedure specially designed to verify compliance with the principle of equality and non discrimination of foreign workers and the enforcement of regulations regarding the authorization of foreign labor, without prejudice to the powers of planning that apply to the Autonomous Communities with responsibility for enforcement of labor laws.

#### **Article 68. Coordination of Public Administration. (Prepared under the Organic Law 2 / 2009)**

1. Immigration Sector Conference is the organ through which will ensure proper coordination of actions to develop the government on immigration.

2. The Autonomous Communities assume executive powers in granting initial authorization of work required should be developed in coordination with State powers in immigration matters, immigration and residence permits, so as to ensure equality in the enforcement Aliens and Immigration throughout, the speed of procedures and exchange of information between administrations need to develop their skills. The coordination must preserve the ability of self-organization of each Autonomous Community and its own system of territorial decentralization.

3. Prior to granting approval for rooting, the Autonomous Communities or, where applicable, the municipalities, issued a report on the social integration of

the foreigner whose habitual residence is in their territory. Regulations shall define the contents of that report. In any case, the report takes into account the residence time, the possibility of having housing and livelihoods, ties with relatives living in Spain, and integration efforts through the monitoring of social and labor programs and cultural integration.

4. The Autonomous Communities that have assumed responsibility for public safety and public order by creating its own police force, may provide, where appropriate, a report on the public involvement in all proceedings for a residence permit or its renewal, referred aliens who are in Spain, which should address the need for governmental report. Such report shall be incorporated to record like that, where appropriate, provide the Security Forces of the State in the exercise of its powers over public safety.

**Article 69. Support immigrant associative movement. (Prepared under the Organic Law 8 / 2000)**

The public authorities shall promote the strengthening of associations between immigrants and support trade unions, business organizations and NGOs, non-profit, foster their social integration by providing financial assistance, both through general programs, such as regarding their specific activities

**Article 70. The Forum for the Social Integration of Immigrants.**

1. The Forum for the Social Integration of Immigrants, consisting of a tripartite and balanced by government representatives of immigrant associations and other organizations with interest and involvement in the migration area, including including trade unions and most representative business, is the organ of consultation, information and advice on integration of immigrants. (Established under Act 2 / 2009)

2. Regulations shall determine its composition, powers, functioning system and administrative assignment. (Prepared under the Organic Law 8 / 2000)

**Article 71. Spanish Observatory on Racism and Xenophobia. (Added by Organic Law 14/2003)**

It will be the Spanish Observatory on Racism and Xenophobia with study and analysis functions, and the ability to make proposals for action in combating racism and xenophobia.

**Article 72. Immigration tripartite Labor Commission. (Added by Organic Law 2 / 2009)**

1. The Tripartite Immigration Workforce Commission is a collegial body under the Ministry responsible for immigration, which includes trade unions and employers' representative.

2. The Tripartite Immigration Workforce Commission will be informed about the evolution of migratory movements in Spain and in any case, be consulted on proposed catalog of difficult coverage, under Article 39 of this Act and the recruitment of seasonal workers to be determined.

3. By Ministerial will determine its composition, mode of appointment of its members, powers and operating range.

### **ADDITIONAL PROVISIONS OF ORGANIC LAW 4 / 2000 of 11 January**

#### **First additional provision. Deadline for resolution of cases. (Written under the Organic Law 2 / 2009)**

1. The general deadline for reporting maximum resolutions permit applications may be made by stakeholders on the basis of the provisions of this Law shall be three months from the day following the date on which they had entered into the registry of the court competent to deal with them, this without prejudice within 15 calendar days established by Community legislation concerning visa application procedures for transit or stay (as well as the exceptions made in it for possible expansion). After the deadline for reporting the resolutions of claims, except as provided in the next section, these may be considered dismissed.

2. Requests for extension of residence permit, the renewal of work permits and applications for approval of long-term residence to be formulated by interested parties under the provisions of this Act shall be settled and reported in the maximum period of three months from the day following the date on which they had entered into the registry of the competent body to deal with them. After that time the Administration has not given specific response, it is understood that the extension or renewal has been granted.

3. Requests for modification of the territorial limitation or occupation of the initial authorization of residence and labor will be resolved and notified by the regional administration in the state or jurisdiction within a month. After that time the Administration has not given specific response, it is understood that the request has been granted.

#### **Second additional provision. Subcommittees of Cooperation. (Added by Organic Law 8 / 2000)**

In response to the territorial state and particular impact of migration and the competencies that have proven in their respective Statutes of Autonomy for the enforcement of labor and social assistance, and in accordance therewith, it may set up subcommittees in the Committees within the bilateral cooperation between the State and the Autonomous Communities, consistent with providing for their respective Statutes of Autonomy, to discuss labor issues and foreign residence that directly affect them.

In particular, attention to the geographical situation of the Canary archipelago, with its fragile island territory and their distance from mainland Europe, in accordance with the provisions of Article 37.1 of the Statute of Autonomy, in the heart of the Bilateral Commission Canary-State Cooperation shall be established a subcommittee to hear the issues that directly affect the Canaries on residence and employment of aliens.

**Third additional provision. Places of submission of applications and demand for personal appearance. (Added by Organic Law 14/2003)**

1. When the subject is entitled in Spanish territory must personally submit applications for residence permits and work in the records of the relevant bodies for processing. Likewise, the procedures that the employer was a legitimate subject, applications may be submitted by him or by his legal representative validly business. Regulations may be waived upon presentation to the competent body for processing or the need for personal appearance of applicants. (Prepared under the Organic Law 2 / 2009)

2. When the subject is legitimate in foreign territory, the submission of visa applications and collection will be made in person at the diplomatic mission or consular office in whose district he is residing. Exceptionally, if the applicant does not reside in the population that have their principal diplomatic or consular mission and credited reasons that hinder the movement, as the remoteness of the mission or office or transportation difficulties that make the trip particularly onerous, it may agreed that the visa application can be submitted by duly authorized representative.

Notwithstanding the previous paragraph, in the event of filing and collection of visitor's visa, transit and residence of family reunification, both procedures may be conducted by duly accredited representative.

In any case, the diplomatic or consular mission may require the attendance of the applicant and, if deemed necessary, a personal interview. The provisions of this paragraph is without prejudice to Community legislation in developing the common visa policy as regards the possibility of concluding agreements with other Member States of the European Union for purposes of representation in third countries, as Application procedures for transit visas or residence. (Prepared under the Organic Law 2 / 2009)

3. Also, do not require personal appearance in the procedures of collective bargaining for workers, in the cases referred to a convention or international agreement, in which case the provisions will be the same.

**Fourth additional provision. Rejection of application process. (Written under the Organic Law 2 / 2009)**

1. The authority to resolve inadmitirá for processing requests relating to procedures governed by this law, in the following cases:

a) Lack of legitimacy of the applicant, or insufficient proof of the representation.

- b) Presentation of the application outside the statutory time limit.
- c) In the case of repetition of a request already denied, provided the circumstances that led to the refusal have not changed.
- d) it is an administrative penalty against the applicant in which to propose the expulsion or has been declared against it a deportation order, judicial or administrative, except that in the latter case, the expulsion order had been revoked or are in one of the cases covered by articles 31 bis, 59, 59 bis or 68.3 of this law.
- e) If the applicant has forbidden entry into Spain.
- f) In the case of manifestly unfounded.
- g) When referring to foreigners who were in Spain in an irregular situation, unless it can be in one of the provisions of article 31, paragraph 3.
- h) Where the application is not made personally, and that fact is required by law.

2. In proceedings concerning applications for transit or residence visa, the competent authority to resolve claims inadmitirá admissible in the following cases:

- a) Submission of the application after the deadline of three months prior to departure.
- b) Presentation of the application document other than the officially established model for the purpose.
- c) Failure to produce valid travel document until at least three months after the date (if applicable, the latest date) intended departure from the territory of the Member States of the European Union in giving at least two blank pages and issued within ten years preceding the filing of the visa application.
- d) Failure to provide a photograph of the applicant, according to the provisions of the regulations governing the Visa Information System (VIS) of the European Union.
- e) Failure to have taken the biometric of the applicant.
- f) Failure to have paid the visa fee.

**Fifth additional provision. Access to information, collaboration**

**between public administrative and information management procedures. (Written under the Organic Law 2 / 2009)**

1. In carrying out the purposes which are entrusted with, and with full respect for current legislation, public authorities, within their jurisdiction, cooperate in the transfer of data relating to persons who might be interested in the procedures governed by this Act Organic and its implementing rules.

2. For the sole purpose of completing the activities that the organs of the General State Administration competent to proceedings under this Act and its implementing rules are mandated, the State Tax Administration Agency, the General Treasury of Social Security and National Institute of Statistics, the latter with regard to the Municipal Census, provide direct access to those files in those who do data to be recorded in such records, and without that requires the consent of the parties, of According to the data protection legislation. Similarly, the previous organizations provide the Autonomous Communities the information necessary to exercise its powers on initial work permits needed again without the consent of those concerned.

3. The conduct of proceedings in immigration matters arising from compliance with the provisions of this Act shall be conducted on a common computer application to deploy and coordination for the other Departments involved responsibility of the Ministry of Labor and Immigration. This application, ensuring the protection of personal data, record information and data on foreign and European Union citizens resident in Spain and their authorities, will promote compliance with the provisions of the legislation on electronic access to the citizens to public services and allow the knowledge in real time the status of applications for approval regulated by this Act by administrative bodies competent in each of the phases of the same, and their involvement in the phase that falls within its remit. Also, the software application allows the generation of statistical databases by governments involved for obtaining the date and reliable information on the relative magnitudes of immigration and foreigners.

In compliance with the provisions of the Community rules on the subject, processing procedures for transit visas and residence was conducted on the software specifically created for the purpose, the Ministry of Foreign Affairs and Cooperation, which will be interconnected with common software application, in order that the database information on the last recorded data requested and granted visas at consular offices or diplomatic missions abroad Spanish. The Interior Ministry, according to its responsibility for public order, public safety and national security, maintain a central registry of foreigners. Regulation, the interconnection will be established, if any, is necessary for the common computer application containing the information that may impact on the administrative status of foreigners in Spain.

4. When the Autonomous Communities, within the scope of its powers to intervene in any of the procedures governed by this Act will ensure that their participation in the computerized procedures to respond to common standards



that ensure the necessary coordination of the activities of all administrative bodies involved . Similarly, the common software application will provide access to the Autonomous Communities with responsibility for a work permit to the information necessary for the exercise of its powers, among which you will find that on the granting and termination of authorizations granted for family reunification its territory and the high Social Security initial work authorizations granted by them.

5. The Permanent Immigration Observatory will link all the available statistical information on foreigners, immigration, international and national protection, regardless of the public administration, ministerial department or agency responsible for its production, in order to serve as system analysis and exchange of qualitative and quantitative information related to migratory movements in the service of the entities responsible for managing public policy on these matters.

**Sixth additional provision. Readmission agreements. (Written under the Organic Law 2 / 2009)**

Aliens who, under the agreements governing the readmission of persons illegally signed by Spain, to be delivered or sent to countries to which they are nationals or from those who have moved to the Spanish territory, they shall apply the provisions of those agreements and their implementing regulations. These agreements contain clauses on respect for human rights under what is established in this respect international treaties and conventions. In the event that the holder of the EU Blue Card Spain was granted subject to a measure of return in another Member State, for having extinguished the life of the original permit to remain in the State or refused his request to reside there readmit him without any further formalities, including , where appropriate, members of his family previously regrouped.

**Seventh additional provision. Delineating the Schengen Area. (Added by Organic Law 14/2003)**

For the purposes of this Act, the Schengen area means all the territories of the States to implement fully the provisions concerning the abolition of checks at internal borders and movement of persons, under Title II of the Convention to implement the Schengen Agreement of 19 June 1990.

**Eighth additional provision. Grants to voluntary return. (Added by Organic Law 14/2003)**

The Government shall provide annual funding for programs of voluntary return of persons who so request and propose projects involving resettlement in society from which they started and provided they are of interest to that community.

**Ninth additional provision. Labor Authorizations regional origin.  
(Added by Organic Law 2 / 2009)**

Under the collective bargaining procedures in primary, autonomous regions with executive powers in respect of work permits may provide services to facilitate the processing of appropriate visas to Spanish consulates, as well as promote the development of host software for foreign workers and their families.

**TRANSITIONAL PROVISIONS OF THE ORGANIC LAW 4 / 2000 of 11 January**

**First transitional provision. Regularization of foreigners who are in Spain.**

The Government, through Royal Decree, establish the procedure for the regularization of foreigners who are in Spanish territory before 1 June 1999 and they have proof occasion requested authorization of residence or work or who have had in the second transitional años.Disposición last three. Validity of existing authorizations.

Separate approvals or cards that enable them to enter, reside and work in Spain to persons included in the scope of the Act to be valid for entry into force of the same, retain it for the time they were issued . Third transitory provision. Regulations applicable to pending proceedings.

The current administrative procedures shall be heard and determined in accordance with current regulations at the time of initiation, except that the person seeking application of this Act.

**SOLE REPEAL PROVISION OF ORGANIC LAW 4 / 2000 of 11 January.**

Is repealed Organic Law 7 / 1985 of 1 July, on rights and freedoms of foreigners in Spain, and any provisions contrary to the provisions of this Act

**FINAL PROVISIONS OF THE ORGANIC LAW 4 / 2000 of 11 January**

**First final provision. Amendment of Article 312 of the Penal Code.**

Paragraph 1 of Article 312 of the Penal Code shall read as follows:

Article 312.

1. Shall be punished with imprisonment from two to five years and a fine of six to twelve months, those who traffic illegally labor.

Second final provision. Inclusion of a new Title XV bis to the Criminal Code.

It introduces a new Title XV bis to read:

Title XVa. Offenses against the rights of foreign citizens.

Article 318 bis.

1. Those who promote, encourage or facilitate illegal trafficking of persons from, in transit or destined for Spain be punished with imprisonment from six months to three years and a fine of six to twelve months.
2. Those who perform the acts described in the preceding paragraph profit, or using violence, intimidation or deception or abuse of a position of need for the victim, shall be punished with imprisonment from two to four years and a fine of twelve to twenty four months.
3. Penalties are imposed in the upper half corresponding to those given in the preceding paragraphs, in the commission of the offense has been endangered the life, health or safety of persons or the victim is a minor.
4. The same penalties in the previous section and also in the disqualification of six to twelve years will incur the facts that make advantage of their position of authority, agent or official thereof.
5. Penalties are imposed higher in degree to those given in the preceding paragraphs, in their respective cases, when the culprit belongs to an organization or association, including transitional character engages in conduct of such activities.

**Third final provision. Changes in Articles 515, 517 and 518 of the Penal Code.**

1. A new paragraph 6. ° in Article 515 with the following wording:

6. ° The promoting trafficking in persons.

2. It amends the first paragraph of Article 517, which reads as follows:

"In the cases mentioned in Nos. 1. Nd and 3. To 6. ° of article 515 shall be imposed the following penalties:"

3. Amending Article 518, which reads as follows:

"The cooperation with economic or any other kind, in any case relevant, promote the foundation, organization or association activity included in numbers 1. Nd and 3. To 6. ° of article 515, shall incur the imprisonment of one to three years, a fine of twelve to twenty four months, and disqualification from public employment or office for a period of one to four years."

**Fourth final provision. Nonorganic Precepts. (Written under the Organic Law 2 / 2009)**

1. Organic nature are the precepts contained in the following provisions of this Law: 1, 2, 3, 4.1, 4.3, 5, 6, 7, 8, 9, 11, 15, 16, 17, 18, 18a, 19, 20 , 21, 22.1,

23, 24, 25, 25a, 27, 29, 30, 30a, 31, 31a, 33, 34, 36, 37, 39, 40, 41, 42, 53, 54, 55, 57, 58, 59, 59 bis, 60, 61, 62, 62a, 62b, 62 c, 62 d, 62 e, 63, 63a, 64, 66, 71, the third to eighth supplementary provisions and the provisions end.

2. The precepts are not included in this section does not have an organic nature.

**Final provision fifth. Support for the Schengen Information System.**

The Government, under the provisions of the Convention Implementing the Schengen Agreement, adopt any measures are required for maintaining the accuracy and updating of the Schengen information system, facilitating the exercise of the right to correct or deletion of data to individuals whose data contained therein.

**A fifth final disposition. Community Code on Visas. (Added by Organic Law 2 / 2009)**

Forecasts of this Law in respect of transit visas and residence shall be without prejudice to the provisions of Regulation (EC) No 810/2009 of 13 July, by establishing a Community Code on Visas.

**Final provision sixth. Regulation of the Law**

The Government within six months adopt the Rules of this Act.

**Final provision seventh. Information Act to agencies and organizations.**

From the time of entry into force of this Act, the Government will take necessary measures to inform staff of the various public administrations, managers of associations of immigrants, bar associations, unions and organizations government changes on the implementation of the previous legislation is the passage of this Act.

**Final provision octave. Allotment.**

The Government shall issue the necessary provisions to meet expenditure incurred in the implementation and development of this Law

**Final provision ninth. Entry into force.**

This Act shall enter into force twenty days after its complete publication in the Gazette.

**ADDITIONAL PROVISIONS OF ORGANIC LAW 8 / 2000 OF 22 DECEMBER**

### **First additional provision. Penal Code.**

The Ministries of Justice and the Interior take the necessary measures so that the Technical Committee set up within the Ministry of Justice to study the reform of the Penal Code sentences, examine the necessary modifications in relation to illegal trafficking offenses people, particularly in cases involving organizations that profit, favoring such trafficking.

Second additional provision.

Amending Article 89 of the Criminal Code by adding new paragraph:

"4. The provisions in the preceding paragraphs shall not apply to aliens who have been convicted for committing offenses under Articles 312, 318 bis, 515.6.º, 517 and 518 of the Criminal Code."

## **TRANSITIONAL PROVISIONS OF THE ORGANIC LAW 8 / 2000 OF 22 DECEMBER**

### **First transitional provision. Validity of existing authorizations.**

1. Separate approvals or cards that enable them to enter, reside and work in Spain to persons included in the scope of this Act to be valid for entry into force of the same, retain it for the time for which they were issued.
2. Applications submitted before the entry into force of this Act shall be heard and resolved according to the rules applicable at the time of the request, unless the person seeking application of the provisions of this Law
3. In his renovation, work permit holders initial B may obtain a work permit C, and B renewed work permits or C, a permanent authorization. Regulations shall establish the equivalence table with pre-authorization Act

### **Second transitional provision. Regulations applicable to proceedings.**

The current administrative procedures shall be heard and determined in accordance with current regulations at the time of initiation, except that the person seeking application of this Law

### **Third transitional provision. Fees.**

Pending develop the forecasts made in Chapter IV of Title II, remain in force the rules governing the licensing fees and permits for foreigners and their modifications, extensions and renovations.

### **Fourth Transitional Provision.**

The Government, by royal decree, fix the conditions that allow, without having to produce new documentation, the regularization of foreigners who are in

Spain and that, having submitted applications for adjustment under the provisions of Royal Decree 239/2000, 18 February, have been denied the same, only, for not fulfilling the requirement of being in Spain before 1 June 1999.

### **Only derogating provision of the Organic Law 8 / 2000 OF 22 DECEMBER**

1. Are repealed all provisions of equal or lower rank which contradict or oppose this law and, in particular paragraph 4 of article one of Royal Decree 864/2001 of 20 July, approving the Regulation implementation of the Organic Law 4 / 2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration, as amended by Organic Law 8 / 2000 of 22 December. (Prepared under the Organic Law 14/2003)

2. Are also repealed Section D of Article 5.III of Law 7 / 1987, May 29 consular fee.

### **FINAL PROVISIONS OF THE ORGANIC LAW 8 / 2000 OF 22 DECEMBER**

#### **First final provision. Items with a range of organic law.**

1. They have the following precepts organic character of Law 4 / 2000, according to the numbering established by this Act, contained in Title I, except Articles 10, 12, 13 and 14 of Title II, Articles 25 and 31.2 and Title III, Articles 53, 54.1 and 57 to 64. They also have organic character second additional provisions, repeal and the first paragraph of that first final provision of this Act and final provisions first to third Law 4 / 2000.

2. The provisions of this Act, not having an organic, shall be rendered under the provisions of Article 149.1.1. St and 2. Rd of the Constitution.

#### **Second final provision. Regulation of the Law**

The Government, within six months from the publication of this Act, approve the Regulations of the Organic Law 4 / 2000 of January 11.

Third final provision. Information Act to agencies and organizations.

From the time of entry into force of this Act, the Government will take steps to report on implementation of previous legislation assuming approval of this Organic Law.

#### **Fourth final provision. Allotment.**

The Government shall issue the necessary provisions to meet expenditure incurred in the implementation and development of this Law

#### **Final provision fifth. Entry into force**

This Act shall enter into force one month after its complete publication in the Gazette.

### **ADDITIONAL PROVISION ONE OF ORGANIC LAW 14/2003 of 20 November.**

#### **Replacing the term license for an authorization.**

All references to the word "permit" included in the Organic Law 4 / 2000, as amended by Organic Law 8 / 2000, replaced by the term "authorization.

### **TRANSITIONAL PROVISIONS OF THE ORGANIC LAW 14/2003, OF NOVEMBER 20**

#### **First transitional provision. Validity of existing authorizations.**

Separate approvals or cards that enable them to enter, reside and work in Spain to persons included in the scope of the law to be valid for entry into force of the same, retain it for the time for which they were issued.

Second transitional provision. Regulations applicable to existing procedures.

The current administrative procedures shall be heard and determined in accordance with current regulations at the time of initiation.

### **SOLE REPEAL PROVISION OF ORGANIC LAW 14/2003, OF NOVEMBER 20**

Are repealed all provisions of equal or lower rank which contradict or oppose this law.

### **FINAL PROVISIONS OF THE ORGANIC LAW 14/2003, OF NOVEMBER 20**

#### **First final provision. Rank Act.**

Organic matter will have the first and second articles, as provisions affecting qualified as such in the first final provision of the Organic Law 8 / 2000 and the repealing of this law only.

#### **Second final provision. Adequacy of the General State Administration Abroad.**

The Government will adopt the appropriate measures to bring the General State Administration on Foreign to the new tasks assigned to it in terms of recruitment and documentation of foreign workers.

#### **Third final provision. Changes in the rules.**

The Government, within six months from the publication of this Act, adjusted their forecasts in the Implementing Regulations of Law 4 / 2000 of 11 January on the rights and freedoms of foreigners in Spain and their integration social, as amended by Organic Law 8 / 2000 of 22 December, approved by Royal Decree 864/2001 of 20 July.

**Fourth final provision. Entry into force.**

This Act shall enter into force one month after its complete publication in the Gazette.

**ADDITIONAL PROVISIONS OF ORGANIC LAW 2 / 2009, of 11 December**

**First additional provision. Replacing the term permanent residence by the long-term residence.**

All references to the terms permanent residence or permanent resident contained in the legal order is deemed to refer to the residence or long-term resident.

**Second additional provision. Family reunification of Spanish citizens on their third country national family.**

Regulations may establish special conditions more favorable than those provided for in this Law, for family reunification is pursued by the Spanish.

**Third additional provision. Conditions of detention of foreigners.**

The Government, within six months adopt a regulation that will develop the system of internment of aliens.

**Fourth additional provision. Amendment of the Organic Law 6 / 1985 of 1 July, the Judicial Branch.**

A new paragraph 2 of Article 87 of Organic Law 6 / 1985 of 1 July, the Judiciary, which read as follows:

2. Likewise, trial courts will hear the authorization of the detention of foreigners in detention centers, and to the enforcement of their stay in the same rooms and rejection of borders. We also know of petitions and complaints raised by inmates as they affect fundamental rights.

**Fifth additional provision. Amendment of Act of 8 June 1957, the Civil Registry.**

A new paragraph to Article 63 of the Act of 8 June 1957, the Civil Registry, which shall read as follows:



63.

The granting of citizenship by residence shall, after proceedings, the Ministry of Justice.

The competent authorities for the handling and determination of applications for acquisition of citizenship by residence, for the sole purpose of resolving the request made by the person concerned shall seek the office of the competent public administrations few reports are necessary to verify whether applicants meet the requirements in Article 22 of the Civil Code, but need not consent of those concerned.

In any case, the applicant may make a report issued by the Autonomous Community for the purpose of crediting their integration into Spanish society.

**Sixth additional provision. Recognition of foreign qualifications.**

The Government will take steps to expedite procedures for validation and recognition of overseas qualifications.

**Seventh additional provision.**

In order to facilitate the work of government control by the Cortes Generales, shall formulate and submit an annual report with qualitative and quantitative analysis of the data analyzed by the Permanent Immigration Observatory related to migratory movements, especially on procedures for labor migration flows.

**SOLE REPEAL PROVISIONS OF ORGANIC LAW 2 / 2009, of 11 December**

Are repealed all provisions of equal or lower rank which contradict or oppose this law

**FINAL PROVISIONS OF THE ORGANIC LAW 2 / 2009, of 11 December**

**First final provision. Precepts organic matter.**

Paragraphs will have organic character of the single article of the Law amending provisions that are of such nature under the Fourth final provision of the Organic Law 4 / 2000 of 11 January, rights and freedoms of foreigners in Spain and its additional provisions, transitional and final.

It has an organic nature the fifth additional provision for amending the Act of 8 June 1957, the Civil Registry.

**Second final provision. Jurisdiction authority.**

The provisions of this Act, not having an organic, shall be rendered under the provisions of Article 149.1.1. St and 2. Rd of the Constitution.

**Third final provision. Changes in the rules.**

1. The Government, within six months from the publication of this Act, shall make such provisions for the implementation and development are needed.

2. Regulations shall regulate the content of the decision of the Secretary of State for Immigration and Emigration, 28 February 2007 on the agreement by approving the instructions by determining the procedure for authorizing the entry, residence and work in Spain, foreigners whose occupation attend the interest of economic, social or labor, or for the conduct of research and development or teaching, which require high qualifications or special artistic performances of cultural interest. Such regulation should include small and medium enterprises.

**Fourth final provision. Entry into force.**

This Law shall enter into force the day following its publication in the Gazette.