

BIPO Work Guide

Spain | September 2023

Advice

By means of this document, BIPO Service Spain would like to inform all our employees and candidates about the general terms regulating employment and related matters in Spain, as well as to be able to solve any doubts that may arise at first instance about how the country works.

The aim is that the employee as well as the client is aware of the principles of labor legislation that often and in comparison to many other European countries, provides greater protection to the employee. That entails with a higher risk possible slight financial and operational risk to the company and to the employer employer.

In all host contracts that BIPO Service enters into with foreign companies, the ultimate responsibility for the employment and, therefore, these risks, lies with the foreign employer.

Overview

In Spain, workers have fundamental rights to ensure fair and safe working conditions. From minimum wage to equality and non-discrimination, these rights seek to protect the dignity and well-being of employees in the workplace. Their enforcement is crucial to an equitable society and a healthy work environment.

In this guide, we will explore some of the fundamental rights that workers in Spain have won over time.

Official Language	Spanish
Official Currency	EURO - €
European Union	Spain joined in 1986
Main Religion	Spain is constituted as a secular country as stated in the constitution.
Government System	Spain is a democratic state whose political form is a parliamentary monarchy.
Governing Law	The Spanish Constitution (1978)

Contents

01 | Social Security System

- Social Security
- Public Health Insurance
- Prevention of Labour Risk
- Sick Leave
- Maternity and Paternity Leave

02 | General Labour Law

- Minimum Wage
- Extra Payments
- Working Hours
- Annual Leave
- Remote Working Contract and Allowance
- Spanish Contracts
- Probation Period

03 | Terminations

- General Information
- Mutual Agreement Termination
- Objective Dismissal
- Procedure to carry out an objective dismissal + conciliation

Contents

04 | Beckham Law

- What exactly is the BL?
- What is the Beckham Law for?
- How does the law work?
- How long does the Beckham Law last?
- What are the requirements for the Beckham Law?
- Who cannot benefit from the Beckham Law?
- Disadvantages of the Beckham Law in Spain

05 | Work permits

- Digital Nomad Visa
- High Skill Visa

1 | Social Security System

Social Security

In Spain, employees must be registered with the social security system, which is paid by the employer.

The system of social security contributions in Spain is shared between the employee and the employer. Both parties contribute to the financing of social security to ensure social protection and benefits for employees.

Social Security contributions are calculated as a percentage of the employee's gross salary, and the total contribution is divided between the employee and the employer. The contribution rate may vary depending on the type of contract, professional category and other factors.

It is important to keep in mind that these percentages may change over time due to reforms in legislation or adjustments in contribution rates.



Public Health Insurance

With the Social Security quotes, we mentioned in the previous point, it is financed large part of the cost of health care published in Spain, which includes:

Spain has a decentralized health system, where the autonomous communities are responsible for managing most of the health services within their territories. The central government makes financial transfers to the autonomous communities to help finance health services in each region.

1. **Universal Coverage:** Public health insurance in Spain guarantees that all legal residents, regardless of nationality or economic status, have access to basic health services.
2. **Primary Care:** The first level of medical care is primary care, provided by family doctors and nurses in health centers. Patients can obtain medical care, diagnosis, basic treatment and referrals to specialists if necessary.
3. **Specialists and Hospitals:** The public health system also has specialist services and hospitals for more complex treatments and medical procedures.
4. **Medications:** The public health system offers access to prescription drugs, which may be partially subsidized or completely free depending on the type of drug and the patient's situation.
5. **Pregnancy and Maternity:** Public health insurance covers pregnancy monitoring, childbirth and postpartum care in both primary care centers and hospitals.
6. **Emergencies and Emergencies:** Urgent and emergency medical services are available at public hospitals 24 hours a day.

1 | Social Security System



Prevention of Labour Risks

The Labor Accident Insurance is paid by the employer and covers all accident-related injury claims for employers.

Workers' compensation insurance is paid by the employer and covers all accident-related injury claims for employers.

In case of an accident at work, if the employee has to go on medical leave, 100% of the employee's salary is automatically covered by the social security.

Sick Leave

In Spain, sick leave, also known as temporary incapacity (TI), is a mechanism that allows workers to be temporarily absent from work due to an illness or accident that prevents them from performing their usual work duties. This leave is intended to protect the worker's health and well-being during the period of convalescence.

During sick leave, the worker may be entitled to receive cash benefits, which are periodic payments that compensate for part of the loss of income due to absence from work. Social Security is the entity responsible for administering these benefits:

Sick leave due to common illness or non-occupational accident:

1. The first three days of sick leave are paid by the worker (nothing is paid).
2. From day 4 to day 20, you will receive 60% of your regulatory base.
3. From the 21st day onwards, you will receive 75% of the regulatory base.

Sick leave due to an accident at work or occupational disease:

1. In the event of an accident at work or an occupational disease, the Social Security will pay 75% of the regulatory base from the first day of sick leave.
2. The remaining 25% is usually supplemented by the employer.

**To evaluate: these are the minimums established by law, the employer usually complements 100% of the sick leave of its employees regardless of the situation of sick leave.*

1 | Social Security System

Maternity and Paternity Leave

In Spain, since 2023, where new improvements have been approved with respect to the law regulating maternity and paternity leave, it is established that:

Both parents are entitled to a maternity/paternity leave of 16 weeks.

Of these, 6 weeks must be taken uninterruptedly after the birth.

The remaining 10 weeks are flexible and can be distributed in a more convenient way as long as it is within 12 months after the birth of the child.

In addition, we have the breastfeeding leave, where both parents have the right to:

1. Either to be absent from work for one hour each day or two half-hour fractions within the working day.
2. Or reduce their working day by half an hour. In this case, workers may enter or leave half an hour earlier than their usual time.
3. Or lastly, and provided that the collective agreement contemplates it, or an agreement is reached with the company, the hours of breastfeeding leave can be added together and transformed into full working days (15 calendar days more).



2 | General Labour Law

Minimum Wage

As of 2023, the Minimum Interprofessional Wage (SMI) increased in Spain to 1080 euros gross per month distributed in 14 payments, retroactively from January of this year. In the case of 12 payments, the worker should receive by law an amount of 1260 euros per month.

Extra Payments

By law, salary in Spain is paid in 14 instalments, but it can also be distributed in 12 monthly wages plus two additional payments taking place in June and December.

(Also, there are other collective bargaining agreements that establishes 15 or 16 payments, although it is not at all common).

However, at BIPO Service, salary is paid in 12 monthly payments, so the annual salary will be divided in 12 instalments and the employee will receive the same salary each month.



Working Hours

In general, the working day is 8 hours a day for a 40-hour working week. Working hours usually start between 8 and 9 a.m., with a break of 0.5 to 1 hour for lunch and resume until 5 or 6 p.m.

Anything over 40 hours is considered overtime and, by law, must be approved by the head of personnel.

Anything over According to our applicable agreement, the maximum number of hours is 1,800, which would imply a maximum of 37 hours per week. However, as the agreement establishes an intensive summer workday in the month of August, this is automatically regulated, allowing a workday of 40 hours the rest of the year.

2 | General Labour Law

Annual Leave

The collective bargaining agreement establishes that annual vacations shall be 23 working days.

In addition, of these 23 days, all workers will be entitled to the bank holidays of Spain, which are:

Public Holiday	Date
New Year's Day	January 1
Three Kings Day	January 6
Good Friday	Variable Date (Friday before Easter Sunday)
Labour Day	May 1
Spanish National Holiday	October 12
All Saints Day	November 1
Constitution Day	December 6
Immaculate Conception Day	December 8
Christmas Day	December 25

In addition to national holidays, each autonomous community in Spain has the ability to establish its own regional holidays, which means that there may be additional holidays in certain regions.

Remote Working Contract and Allowance

Since the Royal Decree-Law 28/2020 approved on September 20, 2022, any worker who works more than 30% of his working day in telework mode (one and a half days a week), must:

- Have a specific telework agreement contract
- The bonus for working remotely
- Financial compensation to cover teleworking expenses (supplies)

This concludes that, in Spain, a contract must be formalized in addition to the conventional work contract, plus a remote working allowance of approximately 50 and 100 euros gross per month, it does not mean that we have to put it on top of the agreed base salary, we can simply put "within the agreed salary" and distribute it in such a way that it covers this requirement in the payroll.

2 | General Labour Law

Spanish Contracts

Although in Spain we have several types of employment contracts, in BIPO, due to the activity we have as a consulting and outsourcing company, we can only offer:

- Permanent employment contract
- Fixed-discontinuous
- Temporary contracts due to circumstances of production (The case should be reviewed with a BIPO associate specialized in this matter due to the law reform of 2022).

BIPO will provide a complete contract adapted to the business modality to its collaborators and employees, as well as a copy of the standardized SEPE contract as established by Spanish law.

Probation Period

The trial period is an initial stage in the employment relationship during which both the employer and the employee can assess whether the employment relationship is suitable for both parties.

Duration: The duration of the probationary period depends on the type of contract and the professional category of the worker. According to the Workers' Statute, the probationary period may have the following maximum durations:

- Indefinite-term contracts: the maximum duration of the probationary period for qualified technicians is 6 months, while for other workers it is from 1 to 3 months.
- Temporary contracts of 6 months or more: The maximum duration of the trial period is 1 month, usually 15 days.

Termination during the probationary period: Both the employer and the employee may terminate the employment relationship during the probationary period without prior notice and without entitlement to compensation.

3 | Terminations



We strongly advise our clients to immediately inform their BIPO operations contact of any conflict or event that may eventually result in the need to terminate or dismiss a candidate, so that a joint strategy can be developed to achieve this with the least possible harm to the parties.

Under Spanish Labour law, the employment relationship may be terminated by:

- Resignation (unilateral termination by the employee). If a mutual agreement termination is reached by both parties, the law considers it a resignation. Not applicable, any pending payments, generated and unconsumed vacation and payroll (proportional days if applicable) are liquidated.
- Objective dismissal (unilateral termination by the employer) > 20 days x year of service.
- Unfair dismissal (unilateral termination by the employer) > 33 days x year of service.
- Disciplinary dismissal (unilateral termination by the employer) > Not applicable, any pending payments, generated and unconsumed vacation and payroll (proportional days if applicable) are liquidated.

First two options (employee direct and unilateral resignation; expiration of a definite term) are straight forward terms and do not pose complex issues under Spanish Labour Law.

However, it must be noted that in the event of a termination due to the expiration of a definite term contract, the employer is liable to make a termination payment equivalent to 12 days' per year of service.

3 | Terminations

Mutual Agreement Termination

The Mutual Agreement Termination doesn't properly exist under Spanish Law, this means it would have the same consideration of a resignation. The employee would not be entitled to receive any unemployment benefits and it needs to be carefully managed as the employee can claim he was requested/made to resign, something not legal under Spanish Labor Law.

For the least, it is important to point out that in the first three termination options (resignation; expiration of a definite term; mutual agreement) the employee will not be entitled to receive Spanish unemployment benefits.

Objective Dismissal

An objective dismissal is termination based on any of the objective grounds such as, economic, technical, productive, or organizational reasons. Some of these reasons regards the employer (i.e., internal reorganization, closure of branches due to changes in demand and the loss of significant contracts, between others) and other refers to the employees (i.e. incompetence of the employee).

An employer (company) may carry out an objective dismissal at any time, however, to be considered fair under the Spanish Labor law, each objective reason have its own special rules established by case law and in all of them there must be strong and proved justification for the termination decision (the objective reasons must be in detail at the termination letter, as the dismissal letter may be later used in court as evidence).

As in PEO services these reasons always will refer to the final client and not to the formal employer we will always recommend using this termination option combined with an agreement signed in the Spanish.

Procedure for Objective Dismissal and Conciliation

Step 1	<ul style="list-style-type: none"> • Client provide relevant info • BIPO prepare the letter • Meeting with the client + Employee
Step 2	<ul style="list-style-type: none"> • 20 working days/ year of service (1 year max) • BIPO repare a letter • Notice period payment • Calculation of the severance payment
Step 3	<ul style="list-style-type: none"> • BIPO recognizes the unfairness of the dismissal • Extra payment offer • Employee book the conciliation appointment • Signature + payment

3 | Terminations

1st Step:

Once the client provide to BIPO the information about the future termination of one of their employees, BIPO will setup a call with the client in order to receive more details.

Once the meeting is done and the client provide all the information to BIPO's team, BIPO will provide the calculations (objective dismissal calculations and unfairness payment calculation) as well as the termination and settlement letter.

2nd Step:

Once all the documents provided by BIPO are approved, the meeting where the client (with BIPO support) will communicate to the employee the termination, will be arranged.

During the meeting, the client will expose the reasons of the termination and BIPO will communicate the calculations and severance payment the employee will receive as well as the conciliation process.

3rd Step:

After the employee signs all the documents (termination letter, settlement letter and payslips), he/she will be able to ask for the conciliation appointment in the government website.

Once the appointment is arranged, someone from BIPO Spain will join the employee the arranged day.

The conciliation is a friendly agreement in front of the government where both parties sign the official document where is recognized the end of any professional relation between the parties.

Once this document is signed, all the process will be fully and officially finalized.

Special protection against unlawful dismissal applies in several cases, e.g:

- During the first two years of illness of an employee.
- During pregnancy or maternity leave.
- Employee has joined a trade union.

In any of these cases, approval of the appropriate French authority is required in advance.

4 | Beckham Law



What exactly is the BL?

The Beckham Law (also called the special regime for displaced workers or simply the Impatriate Law) is a special tax regime for displaced persons who come to work in Spain.

What does this mean? It means that certain workers who were living abroad, if they move to Spain, can enjoy a special tax, more beneficial than the one paid by the rest of taxpayers.

Working people in Spain pay IRPF (Impuesto sobre la Renta de las Personas Físicas), a progressive tax that is levied in percentage brackets. This means that the more money someone earns, the more tax they pay, and vice versa.

The Beckham Law in Spain allows certain posted workers to pay a fixed percentage of tax, rather than the progressive IRPF. If we translate this into numbers, posted workers who come to live (and pay taxes) in Spain will be able to pay 24% tax instead of the IRPF rate (which ranges from 19% to 47%). In short, the Beckham Law is a special IRPF.

What is the Beckham Law for?

The purpose of Spain's Beckham Law is to attract qualified national and foreign workers to pay tax in Spain, offering them a significant tax break by continuing to consider them as non-residents.

How does the law work?

Specifically, if you can benefit from this law, you will be able to pay 24% tax on all earned income up to €600,000. Once this amount is exceeded, you will be taxed again at 47%, like all other taxpayers.

In addition, with the Beckham Law, workers will only have to pay Wealth Tax on assets located in Spain, and not on their overall wealth as would be the case without this tax regime.

4 | Beckham Law

How long does the Beckham Law last?

It does not last forever. This regime can be applied for the first five years that you reside in the country. However, if you want to renounce the Beckham Law or simply the maximum period of five years is over, you have to notify the Inland Revenue between November and December of the previous year.

What are the requirements for the Beckham Law?

You must not have resided in Spain for the ten years prior to the year in which you move or return to the country.

Have an employment contract with a Spanish company. If you also have income from foreign companies, this cannot be more than 15% of your total annual income.

If you are a foreign person and you come to occupy a management position in a Spanish company, you cannot hold more than 25% of the share capital.

In other words, only if you are a salaried employee (paid from work) or if you have moved to Spain to take up a management position can you benefit from this law.

Who cannot benefit from the Beckham Law?

As you can guess from reading the requirements of the Beckham Law, you will not be eligible for the Beckham Law:

- Self-employed or self-employed workers.
- Company directors.
- Professional sportsmen and women.

Disadvantages of the Beckham Law in Spain

- People in this regime, for example, will not be able to apply many of the double taxation treaties, having to pay taxes in two countries.

On the other hand, these workers will not be entitled to exemption from severance pay (in Spain, severance pay is tax-free), and, if they receive this severance pay, they will have to pay income tax on it. Nor are they entitled to the minimum income tax for descendants or family members.

The last disadvantage is that these workers will not be able to deduct certain expenses such as Social Security, while the rest of taxpayers can.

5 | Work permits

In this section we will discuss the two most common work permits in Spain for companies working in either EOR or GPO mode, in Spain, in general we have 8 different work permits.

Digital Nomad Visa

The digital nomad visa is a residence permit that can be extended for a total of 5 years, with the possibility of further extensions. It allows non-EU citizens (from outside the European Union) to reside and work remotely in Spain, engaging in activities as a digital nomad or teleworker.

Conditions of Residence for Digital Nomads

Employees: Employees whose companies permit them to work and travel remotely from another country, in this case, Spain, can apply for this visa. It's important to note that the foreign company must be registered in Spain.

Self-Employed Workers (Freelancers): Self-employed individuals, often referred to as freelancers, are eligible for the digital nomad visa if they have multiple clients or sources of income from around the world, derived from online activities that are not solely based in Spain.

Basic requirements

Qualified professionals: university graduates or postgraduates, vocational training or at least three years of professional experience.

Proof of the existence of a real and continuous activity for at least one year of the company or group of companies with which the year of the company or group of companies with which the worker has an employment or professional relationship.

Proof of the existence of a professional relationship for at least the last three months.

Public or private health insurance taken out with an insurance company authorized to operate in Spain, and/or a health insurance agreement with an insurance company authorized to operate in Spain. Coverage that accredits health coverage.

Certificate of coverage between the country of origin and Spain and/or in the case of non-existence of a coverage agreement, commitment to register with the RETA (in the case of self-employed workers) or accreditation/justification of the company's registration with the Social Security.

Means of subsistence: sufficient resources must be available.

Applications for visas and residence permits must be accompanied by a criminal record certificate from the country/countries in which you have resided during your stay. countries in which you have resided for the last two years.

In addition, a declaration of no criminal record for the last 5 years must be submitted.

The Requirements

Not be a citizen of a State of the European Union, the European Economic Area or Switzerland, or a family member of citizens of these countries to which the Union citizen regime applies ß if so, they have other visas/options.

5 | Work permits

High Skill Visa

The visa for qualified professionals is a residence permit that allows non-EU citizens to live and work legally in Spain, as long as they get a job offer in a Spanish company in a qualified or technical position, or in a managerial position with people in charge.

Thus, in this case, there is no single rule that applies in all cases. Depending on how the requirements are fulfilled, your professional profile may fit in with the application for this work residence.

What are, then, the job profiles that are required to successfully apply for this residence permit?

Executives and managers who lead a relatively large team within a company.

- Workers who work in highly technical and specialised positions (requiring advanced knowledge).
- Citizens from outside the European Union who complete their higher education at a prestigious university or business school.

The Requirements

- Not be in Spanish territory illegally.
- Not have a criminal record in Spain or in their previous countries of residence for offences under Spanish law.
- Not be banned from entering Spain and not be refused entry in the territorial space of countries with which Spain has signed an agreement to this effect.
- University level degree related to the job offer.
- 3 years of relevant experience.
- + 41.000€ annual gross salary.

The initial authorization allows the foreigner to reside and work for 3 years instead of 1 (unless the employment relationship with the company is for a shorter period, making the period equal).

Thus, the foreigner may reside legally in the country for 3 years, may renew for 2 more, and after the third renewal, apply for long-term residence.

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FOR MORE INFORMATION

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