
PRESENTATION OF MOTIVES

I. On the 12 January, Organic Law 4/2000, of 11 January, regarding the rights and freedoms of foreign nationals living in Spain and their social integration, was published in the Official Bulletin of the State, it having been observed during its time of validity aspects in which the reality of the migratory phenomenon surpasses the provisions of the regulation.

At the same time, our regulation must conform to the commitments assumed by Spain, specifically, to the conclusions adopted by the Chiefs of State and the Government of the Member States of the European Union on 16 and 17 of October, 1999, in Tampere regarding the creation of an area of liberty, security, and justice.

The reform to Organic Law 4/2000 arises from the situation and characteristics of the foreign population in Spain, not only at present, but with an eye to the coming years, regulating immigration from the consideration that it is a structural fact which has made Spain a destination of migratory flow, and also a point of transit toward other states, whose border controls on those routes leaving our country have been eliminated or substantially reduced.

In still another sense, this regulation forms part of a comprehensive, coordinated scheme for the treatment of the migratory phenomenon in Spain, encompassing from a broad standpoint all of its related aspects and thus considered not only from a single perspective, such as that of controlling the flow, that of the integration of foreign residents, or that of the co-development of their countries of origin, but rather all of these together.

II. The present Organic Law contains three articles, the first of these dedicated to the modification of the articles of Organic Law 4/2000, regarding the rights and freedoms of foreign nationals living in Spain and their social integration, while the second modifies the only additional Provision, adding a new additional Provision, and the third adapts the Titles and Chapters of the same to the reform being effected.

Organic Law 4/2000, of 11 January, retains its structure articulated around a Preliminary Title dedicated to General Provisions and where its scope of application is defined, four Titles, and finally the relevant additional, transitory, derogatory and final Provisions. Title I brings together the articles dedicated to the “Rights and Freedoms of Foreign Nationals”, Title II those on “Legal Rulings for
Foreign Nationals”, Title III “On Infractions Involving Foreign Nationals and their Sanctioning Regulations” and finally Title IV on the “Coordination of Public Authority in regard to Foreign Nationals.”

III. The modification of the Preliminary Title is merely a grammatical improvement in the definition of foreign nationals, retaining the exclusions to the scope of law which were established by Organic Law 4/2000, of 11 January.

IV. With respect to the modification of Title I, whose content is especially important, it has been made to comply with the constitutional mandate of article 13, which establishes that foreign nationals in Spain shall possess the public freedoms guaranteed by Title I of the same, in the terms established by the Treaties and the Law, as well as Jurisprudence with respect to the Constitutional Court (Constitutional Court Sentence 107/1984, of 23 November, 99/85, of 30 September, 115/87, of 7 July, etc.). This constitutional mandate has been considered jointly with the international commitments acquired by Spain, in particular as Member of the European Union.

The Chiefs of State and the Government of the Member States of the European Union agreed in October 1999 in Tampere that fair treatment must be guaranteed for third country nationals who reside legally within the territories of its Member States. A policy of integration must be directed toward granting to these residents rights and obligations comparable to those of UE citizens, as well as combating discrimination in economic, social and cultural life and developing measures against racism and xenophobia.

The modifications made to Title I of the Law are notable for their preoccupation with recognizing for foreign nationals the maximum share of rights and freedoms. In paragraph I of article 3, it is established that, as a general interpretive criteria, foreign nationals are understood to exercise the rights granted to them by this Law in conditions of equality with Spaniards.

V. Regarding Title II of the Organic Law, regarding legal rulings on the situations of foreign nationals, the premise which has guided the modifications made to it has been that of establishing a scheme of situations and permits which encourage foreign nationals to enter and remain in our country within a framework of legality, as opposed to illegal entry and residence. This Title has been adapted to the guidelines for entry, issuance of visas, and length and extension of stays established by the Schengen Implementing Convention, inasmuch as Spain forms part of this Agreement.

The situation of temporary residency and permanent residency has been maintained, introducing the possibility of a temporary residency permit being granted for humanitarian reasons or in exceptional circumstances.

A difference is established between the situation of stateless persons and that of those foreign nationals who, unable to be documented by any country, wish to obtain documentation in Spain which accredits their identity.
With respect to the regulation of work permits authorizing foreign nationals to carry out lucrative activities in Spain, on a basis of self-employment or otherwise, the distinction is clarified between said permit and the mere situation of legal residency, equally notable being the treatment given in this new text to the contingent of foreign workers, establishing various exceptions to the same based on the circumstances determined by the situation of the foreign worker. In a definitive manner, a standard of documentation is articulated which makes it possible for the foreigner who wishes to work in our country to do so with all guarantees and rights.

Finally, Chapter IV of this Title, regarding fees for administrative authorizations, has been modified to adapt it to the applicable regulations on fees. The text of Organic Law 4/2000 only made reference to fees for administrative authorizations for working in Spain.

VI. In Title III, regarding Infractions Involving Foreign Nationals and their Sanctioning Regulations, modifications have been introduced which can be synthesized into two sections: measures related to the fight against illegal immigration; and the improvement of the mechanisms for preventing illegal immigration. With respect to the first point, it is necessary to highlight two distinct issues: the nature of sanctions for transport companies, and sanctions directed against those who organize networks for the trafficking of human beings.

The reform includes in the contents of the Organic Law, in accordance with the international commitments made by Spain as a member of Schengen, sanctions against carriers who bring foreign nationals into Spanish territory without verifying their compliance with entry requirements.

With respect to sanctions against the trafficking of persons, measures have been introduced to broaden the fight against such trafficking, and the exploitation of human beings, by permitting the control of specific activities linked to the same and facilitating the neutralization of the means employed by the traffickers.

On the other hand, assuming that in a lawful state it is necessary to establish the mechanisms which permit an effective compliance with the regulations, in this case with those governing the entry into and continued residence in Spanish territory, remaining illegitimately in Spanish territory is considered herein as an infraction sanctionable with expulsion, intending by this to increase the State’s capacity to act in the control of illegal immigration, to the same degree as other Member States of the European Union, which include in their legal systems the possibility of expelling foreign nationals found in this situation, a criteria reflected in the conclusions of the European Council of Tampere.

VII. Finally, with respect to Title IV of the Organic Law, relating to the coordination of public authority as applied to immigration, the definition of the Forum for the Social Integration of Immigrants has been revised, focussing this organization’s
role as consultant, information provider, and advisor toward the integration of immigrants in Spain, which is one of the principal objectives of the Law.

PRELIMINARY TITLE

General Provisions

Article 1. Delimitation of Scope.

1. For the purposes of the application of the present Law, foreign nationals are considered to be those persons not having Spanish nationality.

2. The provisions of this Law are understood to be, in all cases, without prejudice to those established in special laws and in the International Treaties of which Spain is part.

Article 2. Exclusion from the Scope of the Law.

Excluded from the scope of application of this law are:

a) Diplomatic Agents and Consular Functionaries recognized in Spain, as well as other members of permanent or special diplomatic missions and consular offices and their families who, under the regulations of International Law, are exempt from the obligations related to their registration as foreign nationals and to the obtainment of a residency permit.

b) Representatives and Delegates, as well as other members and their families, of permanent missions or delegations to Inter-Governmental Agencies with headquarters in Spain, or at International Conferences held in Spain.

c) Functionaries assigned to International or Inter-Governmental Organizations with headquarters in Spain, as well as their families, who, under the Treaties of which Spain is part, are exempt from the obligations mentioned in paragraph a) of this article.

TITLE I

Rights and Freedoms of Foreign Nationals

Chapter I

Rights and Freedoms of Foreign Nationals
Article 3. The Rights of Foreign Nationals and the Interpretation of the Regulations.

1. Foreign nationals in Spain shall enjoy the rights and freedoms recognized in Title I of the Constitution in the terms established in International Treaties, in this Law, and in those which control the exercise of each of them. As a general interpretive criteria, it is understood that foreign nationals exercise the rights granted to them by this Law in conditions of equality with Spaniards.

2. The regulations relating to the fundamental rights of foreign nationals shall be interpreted in accordance with the Universal Declaration of Human Rights and with the International Treaties and Agreements on these same issues which are applicable in Spain, the profession of religious beliefs or diverse ideological or cultural convictions not being allowed as a justification for actions or conduct contrary to the same.

Article 4. The Right to Documentation.

1. Foreign nationals in Spanish territory have the right and the obligation to possess documentation which accredits their identity, issued by the competent authorities of their native countries or places of origin, as well as that which accredits their situation in Spain.

2. They may not be deprived of their documentation, except in those cases and with the requirements provided in this Organic Law and in Organic Law 1/1992, of 21 February, on the Protection of Citizen Security.

Article 5. The Right to the Freedom of Movement.

1. Foreign nationals residing in Spain in accordance with that established in Title II of this Law shall have the right to move freely within Spanish territory and to choose their place of residence with no limitations other than those generally established by treaties and laws, or those agreed upon by Judicial Authority, of a precautionary nature, or relating to a criminal trial or extradition case in which the foreign national has the condition of defendant, victim or witness, or as consequence of a final judgment.

2. However, specific limiting measures may be established when agreed upon in the declaration of a state of exception or siege in the terms established in the Constitution, and exceptionally for reasons of public safety, on an individual basis, justified by and in proportion to the circumstances affecting each case, by resolution of the Minister of the Interior, adopted in accordance with the legal guarantees of the sanctioning process provided by the Law. The measures of limitation, whose duration shall not exceed the time essential and proportional to the persistence of the circumstances which justified their adoption, may consist of
periodic presentation before the appropriate authorities and removal from borders or populated areas, to be specified individually.

Article 6. Public Participation.

1. Foreign nationals residing in Spain may have the right to vote in municipal elections by criteria of reciprocity, in the terms which have been established by Law or Treaty for Spaniards residing in their countries of origin.

2. Resident foreign nationals, registered in the census of a municipality, have all of the rights established by local legislation under this concept, and thus a voice on issues which affect them in accordance with that established in the regulations of application.

3. Local governments shall adopt the specified pattern and maintain updated information on the foreign nationals who reside within their municipalities.

4. Public authorities shall support the exercise of the right of foreign nationals to vote in the democratic electoral processes of their countries of origin.


1. Foreign nationals shall have the right of assembly, in conformity with the laws regulating the same for Spaniards, and may exercise it when they have obtained authorization for their stay or residency in Spain.

2. The promoters of assemblies or demonstrations in places of public transit shall notify the competent authority of these beforehand, with the prior notice specified in the Organic Law regulating the Right of Assembly, who may not prohibit them or propose their modification except for the causes indicated in said Law.


1. All foreign nationals shall have the right of association, in conformity with the laws regulating the same for Spaniards, and may exercise it when they have obtained authorization for their stay or residency in Spain.

Article 9. The Right to Education.

1. All foreign nationals younger than eighteen years of age have the right and the obligation to an education in the same conditions as Spaniards, a right which comprises access to a basic education, free of charge and compulsory, to the obtainment of the corresponding academic qualification and access to the public system of scholarships and grants.
2. In the case of infant education, which is of a voluntary nature, the Bodies of Public Administration shall guarantee the existence of a number of places sufficient to ensure this type of education for the population requesting it.

3. Resident foreign nationals shall have the right to education of a non-compulsory nature in the same conditions as Spaniards. Specifically, they shall have the right of access to levels of education and training not described in the preceding section and to the obtainment of the corresponding qualifications in each case, as well as access to the public system of scholarships and grants.

4. The Bodies of Public Administration shall make it possible for those resident foreign nationals who require it to receive an education for their better social integration, with recognition and respect for their cultural identity.

5. Resident foreign nationals shall be able to engage in activities in the fields of teaching or scientific research in accordance with that established in applicable rulings. In like manner, they may also create and direct centres, in accordance with that established in applicable rulings.


1. Foreign nationals who possess all of necessary requirements specified in this Organic Law and its provisions, shall have the right to engage in remunerated activities, on a basis of self-employment or otherwise, as well as access to the Social Security system, in conformity with applicable legislation.

2. Resident foreign nationals in Spain shall have access, in conditions equal to those of nationals of European Union Member States, to employment in Public Administration, in accordance with the constitutional principles of equality, merit and ability, as well that of publicity. To this effect, they may apply for positions of Public Employment offered by the Bodies of Public Administration.

Article 11. Freedom to Unionise and to Strike.

1. Foreign nationals shall have the right to unionise freely or to join a professional organization, in the same conditions as Spaniards, and may exercise it when they have obtained authorization for their stay or residency in Spain.

2. In like manner, once authorized to work, they may exercise their right to strike.


1. Foreign nationals in Spain who are registered in the census of the municipality in which they normally reside shall have the right to health care in the same conditions as Spaniards.
2. Foreign nationals in Spain have the right to emergency public health care in the case of serious illness or accident, whatever the cause, and to the continuance of such care, until a medical release has been given.

3. Foreign nationals in Spain who are younger than eighteen years of age shall have the right to health care in the same conditions as Spaniards.

4. Foreign nationals in Spain who are pregnant shall have the right to pre-natal, delivery and post-natal health care.

**Article 13. The Right to Housing Assistance.**

Resident foreign nationals have the right of access to the public system of housing assistance in the same conditions as Spaniards.

**Article 14. The Right to Social Security and to Social Services.**

1. Resident foreign nationals shall have the right to benefits and services of the Social Security system in the same conditions as Spaniards.

2. Resident foreign nationals shall have the right to social services and benefits, basic and general as well as specific, in the same conditions as Spaniards.

3. Foreign nationals, regardless of their administrative situation, have the right to basic social services and benefits.

**Article 15. The Subjection of Foreign Nationals to the Same Taxation as Spaniards.**

1. Without prejudice to that established in applicable agreements on double international taxation, foreign nationals are subject, on a general basis, to the same taxation as Spaniards.

2. Foreign nationals shall have the right to transfer income and savings obtained in Spain to their country, or to any other, in conformity with the procedures established by Spanish legislation and in conformity with applicable international agreements. The Government shall adopt the measures necessary to facilitate said transfers.

**Chapter II**

**Family Reunification**
Article 16. The Right to Family Privacy.

1. Resident foreign nationals have the right to family life and to family privacy in the manner provided by this Organic Law and in accordance with the International Treaties subscribed to by Spain.

2. Resident foreign nationals in Spain have the right to be reunited with family members as determined in article 17.

3. Spouses who have acquired residency in Spain by family ties, as well as the family members living together with them, shall retain their residency even if the marital tie which brought about the acquisition has been broken.

The length of prior cohabitation in Spain necessary to accredit these cases shall be determined by regulation.

Article 17. Families Eligible for Reunification.

1. The resident foreign national has the right to be reunited with the following family members:

a) The resident’s spouse, provided that the couple is not separated, by fact or by law, or in the case that the marriage has been conducted fraudulently. In no case may more than one spouse be included, even if the foreign national’s personal creed admits this form of matrimony. The resident foreign national who is separated from his or her spouse and remarried in second or other marriages shall only be permitted to be reunited with the current spouse and family members if it can be proved that the dissolution of the previous marriages has taken place through a judicial process determining the situation of the former spouse in regard to common dwelling place, alimony and child support.

b) The children of the resident and of his spouse, including those adopted, if they are younger than eighteen years of age or are disabled, in conformity with Spanish Law or the foreigner’s own Law, and if these are unmarried. In the case of children of only one of the parents, it is required that he or she exercise individually his or her paternal authority, or have been granted legal custody or guardianship. In the case of adopted children, it must be proven that the resolution by which the adoption was granted contains the elements necessary for it to be recognized in Spain.

c) Children younger than eighteen years of age, or disabled, for whom the resident foreign national serves as legal representative.

d) Relatives in the ascending line of the reunited foreign national or spouse, when these are in his charge and when there exist reasons to justify the necessity of authorizing their residency in Spain.
2. The conditions for the exercise of the right of family reunification, especially that corresponding to those who have acquired residency through a previous reunification, shall be determined by regulation.

**Article 18. Procedure for Family Reunification.**

1. Foreign nationals who wish to exercise this right must request a residency authorization for family reunification for those family members they wish to be reunited with. At the same time, proof must be presented that adequate housing is available for them and that there are sufficient means of support to provide for the necessities of the family once it is reunified.

2. They may exercise the right of reunification with their family members in Spain when they have resided legally for one year and have authorization to reside for at least another year.

3. When the request for family reunification has been accepted the competent authority shall issue the residency authorization for the family members to be reunited, the duration of which shall be equal to the period of validity of the residency authorization of the person who has requested the reunification.

4. The conditions for the exercise of the right of family reunification for those who have acquired residency through a previous reunification shall be determined by regulation.

**Article 19. The Effects of Family Reunification in Special Circumstances.**

1. The spouse may obtain an independent residency authorization when:

   a) He or she obtains a work permit.

   b) Can prove that he or she has lived in Spain with his or her spouse for two years. This period of time may be reduced when there are family circumstances which justify doing so.

2. Reunited children shall obtain an independent residency authorization in the following cases:

   a) When they reach legal age.

   b) When they obtain an authorization to work.
Chapter III
Legal Guarantees

Article 20. The Right to Effective Legal Protection.

1. Foreign nationals have the right to effective legal protection.

2. Legal procedures established in relation to foreign nationals shall respect in each case the guarantees provided by general legislation on administrative procedure, especially in regard to the public nature of the laws, contradiction, hearing by the interested party, and the justification of resolutions, except for what is provided by article 27 of this Law.

3. It shall be legitimate for organizations constituted legally in Spain for the defence of immigrants, and expressly designated by them, to act as interested parties in administrative procedures.

4. In administrative appeal procedures regarding foreign nationals, the intervention of organizations which are affected in the terms established in article 19.1.b.) of the regulatory law of said jurisdiction shall be legitimised.


1. Administrative acts and resolutions adopted in relation to foreign nationals shall be open to appeal according to the provisions of the laws.

2. Regulations of execution for administrative acts regarding foreign nationals shall be as generally provided in the applicable legislation, except for what is established in this Law for the processing of expulsion cases of a preferential nature.

Article 22. The Right to Free Legal Assistance.

1. Foreign nationals in Spain who lack sufficient economic resources, according to the criteria established in the regulations regarding free legal assistance, shall have a right to this in administrative or legal procedures which might lead to refusal of entry, to repatriation or expulsion from Spanish territory, and in all procedures regarding asylum. They shall furthermore have the right to the assistance of an interpreter if they do not speak or understand the official language employed.

2. Resident foreign nationals who prove an insufficiency of economic resources to litigate shall have the right to free legal assistance in equal conditions to Spaniards in those procedures in which they are involved, regardless of the applicable jurisdiction.
Chapter IV

On Anti-Discrimination Measures


1. For the purposes of this Law, discrimination is defined as all acts which, directly or indirectly, involve a distinction, exclusion, restriction or preference against a foreign national based on race, colour, ancestry, national or ethnic origin, or religious convictions and practices, and which have as their object or effect the destruction or limitation of the recognition or exercise, in conditions of equality, of human rights and fundamental freedoms in the political, economic, social or cultural spheres.

2. In any case, acts of discrimination are constituted as being:

a) Those effected by public authorities or functionaries or personnel responsible for a public service who in their exercise of their duties, by action or omission, perform any discriminatory act prohibited by the law against a foreign citizen, merely for his condition as such or for belonging to a determined race, religion, ethnic group or nationality.

b) All those which impose more undesirable conditions than those for Spaniards, or which imply a resistance to supplying to the foreign national goods or services offered to the public, merely for his condition as such, or for belonging to a determined race, religion, ethnic group or nationality.

c) All those which illegally impose more undesirable conditions than for Spaniards or restrict or limit the access to work, housing, education, professional training, social services and social assistance, as well as to any other right recognized in the present Organic Law, for the foreign national residing legally in Spain, merely for his condition as such or for belonging to a determined race, religion, ethnic group or nationality.

d) All those which impede, through actions or omissions, the exercise of an economic activity undertaken legitimately by a foreign national residing legally in Spain, merely for his condition as such or for belonging to a determined race, religion, ethnic group or nationality.

e) Indirect discrimination is constituted as being all treatment derived from the adoption of criteria to the detriment of workers for their condition as foreign nationals or for belonging to a determined race, religion, ethnic group or nationality.

Legal protection against any discriminatory practice involving the violation of fundamental rights and freedoms may be demanded through the procedure provided by article 53.2 of the Constitution in the terms legally established.

TITLE II

Legal Rulings for Foreign Nationals

Chapter I

On Entry into and Departure from Spanish Territory

Article 25. Requirements for Entry into Spanish Territory

1. The foreign national who wishes to enter Spain must do so through those border posts authorized for this purpose and be in possession of a passport or travel document which accredits his identity, and which is considered valid for this purpose under the international agreements subscribed to by Spain and not subject to any express prohibitions. In like manner, he must present appropriate documentation justifying the object and conditions of his stay, and prove means of support sufficient for the time he wishes to remain in Spain, or that he is in conditions to obtain such means.

2. Except in those cases in which the contrary has been established in the international agreements subscribed to by Spain, a visa shall also be required. A visa shall not be required when the foreign national possesses an authorization of residency in Spain or an analogous document permitting his entry into Spanish territory.

3. That established in the preceding paragraphs shall not be applicable to foreign nationals who request to exercise the right of asylum at the moment of their entry into Spain, the granting of which is governed by its own specific regulations.

4. Entry into Spain by foreign nationals not possessing the requirements established in the preceding paragraphs may be authorized when there exist exceptional reasons of a humanitarian nature, public interest or compliance with commitments acquired by Spain. In these cases, the foreign national shall be provided with the documentation which is established by regulation.


1. Foreign nationals who have been expelled shall not be allowed to enter Spain, nor to obtain a visa for this purpose, as long as the prohibition of entry lasts, nor
shall those whose entry has been prohibited by some other legally established cause or under international Conventions in which Spain forms part.

2. To foreign nationals not in compliance with the entry requirements established, entry shall be denied by means of a justified resolution, with information as to the resources which can be used for its appeal, the time limit for doing so and the authority to which such an appeal must be made, as well as the foreign national's right to legal assistance, which may be *ex officio*, and to an interpreter, which will commence from the moment of effecting the action at the border post.

**Article 27. Issuance of Visas.**

1. Visas shall be applied for and issued in the Diplomatic Missions and Consular Offices of Spain, and shall enable the foreign national to request entry at a Spanish border post. In exceptional cases, visas may be applied for and issued at the border post itself.

2. Specific regulations shall be established for the granting and issuance of visas, in conformity with that established in the Eleventh Additional Provision to Law 30/1992, of 26 November. In said procedure, the personal appearance of the applicant may be required.

3. The exercise of the authority to grant or deny visas shall be subject to applicable international commitments on this matter and oriented toward compliance with the objectives of the foreign policies of the Kingdom of Spain and of other public policies of Spain or of the European Union, such as regard immigration, the economy, or citizen security.

4. In exceptional cases, other criteria may be added, by regulation, to those governing the granting and denial of visas.

5. The denial of visas must be justified where residency visas for the reunification of families are concerned or for non-self-employed workers. If the denial is due to the applicant’s being included in the list of inadmissible persons provided by the Schengen Implementing Convention of 14 June 1990, this shall be thusly communicated in conformity with the regulations established by said Convention.

The resolution shall express the resources which may be used for its appeal, the body before which an appeal must be presented, and the time limit for doing so.

**Article 28. On Departure from Spain.**

1. Departures from Spanish territory may be carried out freely, except in those cases provided by the Penal Code and in the present Law.
2. In exceptional cases, the Minister of the Interior may prohibit departure from Spanish territory for reasons of national security or public health. The review and resolution of such prohibition orders shall be made in all cases on an individual basis.

3. Departure will be obligatory in the following cases:

a) Expulsion from Spanish territory by judicial order, in the cases provided by the Penal Code.

b) Expulsion or repatriation decided by administrative resolution in the cases provided by the present Law.

c) Administrative denial of the applications filed by the foreign national in order to continue his residence in Spanish territory, or lack of authorization for his stay in Spain.

Chapter II

Situations of Foreign Nationals

Article 29. Enumeration of Situations.

1. Foreign nationals may be in Spain in situations of: stay, temporary residency, or permanent residency.

2. Temporary or permanent residency, as well as extension of stays, must be authorized by the Ministry of the Interior.

3. Resident foreign nationals are those who have obtained a temporary or permanent residency permit.

Article 30. Stays.

1. A stay is defined as being in Spanish territory for a period of not more than ninety days.

2. After said period of time, to remain in Spanish territory shall require the obtainment of an extension of stay or a residency permit.

3. In cases of entry with visa, when the duration of this is less than three months, the stay may be extended, which in no case may be more than three months within a six-month period.
4. In cases of entry without visa, when there are exceptional justifying circumstances, the foreign national's stay in Spanish territory may be authorized beyond the three-month period.

**Article 31. Temporary Residency.**

1. Temporary residency is the situation which authorizes the foreign national to remain in Spain for a period of more than ninety days and less than five years. Authorizations with a duration of less than five years may be extended at the request of the interested party if circumstances exist which are analogous to those which justified their concession. The duration of authorizations for temporary residency and their extensions shall be established by regulation.

2. Temporary residency is granted to the foreign national who can prove sufficient means to meet the expenses of his maintenance, including, if this be the case, those of his family, during the period of time for which it is requested without the necessity of engaging in any lucrative activity, when he or she has the intention of engaging in an economic activity, on a basis of self-employment or otherwise, and for which he or she has obtained the administrative work authorization referred to in article 34 of this Law, or is the beneficiary of the right to family reunification. The criteria used to determine the sufficiency of means referred to in this section shall be established by regulation.

3. The Administration may grant temporary residency permits to foreign nationals who in the past have obtained this permit and have not been able to renew it, as well to those who can prove that they have lived in Spanish territory for a minimum period of five years. The requirements for accessing temporary residency in this manner shall be determined by regulation, especially as concerns the justification of the economic means of support and continuous habitation in Spanish territory.

4. Temporary residency permits may be granted for humanitarian reasons, in exceptional circumstances, or when a situation of cultural rooting can be proven, in the cases provided by regulation.

5. For a temporary residency permit to be authorized it is required that the foreign national not have a criminal record in Spain or in the countries of previous residence for crimes declared to be so by Spanish ordinances, and that he is not classed as refusable in the territories of countries with which Spain has signed agreements in this regard. The possibility of renewing a residency permit for foreigner nationals who have been sentenced for a crime and who have completed this sentence, for those who have been pardoned, or for those in a situation of conditional remission, shall be evaluated in the light of the circumstances in each case.

6. Foreign nationals holding a temporary residency permit shall be required to notify the Ministry of the Interior of changes in nationality and domicile.
7. In exceptional cases, for humanitarian reasons or in collaboration with the judicial process, The Ministry of the Interior may exempt from the obligation of obtaining a visa foreign nationals who are in Spanish territory and meet the requirements for obtaining a residency permit. When the exemption is requested for the resident’s spouse, the circumstances outlined in articles 17 and 18 must exist, and at least one year of cohabitation be proven, as well as the spouse’s authorization to remain for at least another year.

Article 32. Permanent Residency.

1. Permanent residency is the situation which authorizes the foreign national to reside in Spain indefinitely and to work in conditions equal to those of Spaniards.

2. Those who have held temporary residency for five years in a continuous form shall have the right to permanent residency. Residency shall be considered continuous even if for periods of vacations or other reasons, as established by regulation, the foreign national has left the national territory temporarily. The criteria under which the cited time period is not required are established by regulation and exceptionally in the case of special ties with Spain.

Article 33. Special Rulings for Students.

1. A student shall be considered to be the foreign national who has come to Spain with the sole or principal object of pursuing a course of study, furthering his education or carrying out projects of research or training, not remunerated, in any officially recognized Spanish educational or research institution, public or private.

2. The duration of the authorization of stay issued by the Ministry of the Interior shall be equal to that of the course in which the student is enrolled.

3. The authorization shall be extended annually if the holder can demonstrate that he continues to meet the requirements for the issuance of the initial authorization and that he complies with the requirements of the educational institution he attends, the realization of these studies having been verified.

4. Foreign nationals admitted for the purpose of studying shall not be authorized to engage in any lucrative activity, on a basis of self-employment or otherwise. However, to the degree that it does not limit the pursuance of their studies, and in the terms established by regulation, they may take part in remunerated activities on a part-time basis or of a determined duration.

That established in article 10.2 of this Law notwithstanding, foreign nationals admitted for the purpose of studying may be contracted as public service personnel in the terms and conditions established in this article.

5. Working for a family in order to offset the costs of one’s stay and self-maintenance while at the same time improving one’s linguistic or professional
knowledge shall be regulated in accordance with what is established in international agreements on the position of “au pair”.

**Article 34. The Residency of Stateless Persons, Undocumented Persons and Refugees.**

1. The Ministry of the Interior shall recognize the condition of stateless to those foreign nationals who, proving that they lack nationality, meet the requirements provided by the Convention relating to the Status of Stateless Persons, adopted in New York on 28 September 1954, and shall issue for them the documentation provided by article 27 of said Convention. The status of statelessness shall follow the specific regulations determined for it.

2. The foreign national who presents himself to the offices of the Ministry of the Interior claiming that for any insurmountable cause, distinct from being stateless, he cannot be documented by the authorities of any country and wishes to be documented by Spain, upon providing the pertinent information shall be able to obtain, on a exceptional basis and in the terms established by regulation, a document of identity which will accredit his registration with the referred to offices. In any case, the requested documentation shall be denied when the applicant is has incurred any of the conditions described in article 26.

Foreign nationals who have obtained said inscription and wish to remain in Spain, must apply for a residency permit valid for the lifetime of said document. They may also apply for a work permit for the period specified, in the same conditions as other foreign nationals.

Those who wish to travel abroad shall in addition be provided with a travel authorization.

3. A favourable resolution in a request for asylum in Spain shall suppose for the applicant the recognition of the condition of refugee, giving him the right to reside in Spain and to work, engaging in professional or mercantile activities in conformity with the provisions of Law 5/1984, of 26 March, governing the right of asylum and the condition of refugee, modified by Law 9/1994, of 19 May, and its developmental regulation. Said condition shall signify that the subject may not be repatriated or expelled under the terms of article 33 of the Convention relating to the Status of Refugees, adopted in Geneva on 28 July 1951.

**Article 35. Residency of Minors.**

1. In cases in which Security Forces locate an undocumented foreign national whose minority of age cannot be established with certainty, he or she shall be given, by those agencies competent for the protection of minors, the immediate attention required, in accordance with what has been established in legislation regarding the legal protection of minors, making this immediately known to the
Department of the Public Prosecutor, which will provide a determination of the subject’s age, with the collaboration of the appropriate health institutions, which, on a priority basis, will carry out the necessary examinations.

2. Once the subject’s age has been determined, in the case that he is a minor he shall be entrusted by the Department of the Public Prosecutor to the competent agencies for the protection of minors.

3. The Administration of the State, in conformity with the principle of family reunification of the minor and on the report of the minor protection agencies, shall resolve what is necessary in relation to the return to his country of origin or to the country in which his family may be found or, that failing, to his continued residence in Spain.

4. The residency of minors under the guardianship of a Public Administrative Body shall be considered legal in all respects. At the request of the organization which exercises this guardianship and once the impossibility of the return to the subject’s family or country or origin has been proven, a residency permit will be granted, retroactive to the moment at which the minor was placed at the disposition of the minor protection agencies.

5. The Security Forces of the State shall adopt the technical measures necessary for the identification of undocumented foreign minors, with the purpose of ascertaining the possible references to them which may exist in national or foreign public institutions charged with their protection. This information may not be used for any purpose other than that provided in this section.

Chapter III

On Work Permits and Special Rulings


1. In order to exercise any lucrative activity, professional or unskilled, foreign nationals over the age of sixteen must obtain, in addition to a residency permit or authorization of stay, an administrative work authorization.

2. When the foreigner proposes to work, on a basis of self-employment or otherwise, in a profession for which a special certification is required, the grant of the permit shall be conditioned by the possession and, if it be the case, the validation of this certification. It shall also be dependent on membership in a professional association if this is required by law.

3. Employers who wish to hire a foreign national who is not authorized to work must first obtain, in conformity with paragraph 1 of this article, authorization from the Ministry of Labour and Social Affairs. The lack of this authorization on the part
of the employer, without prejudice to the responsibilities it implies, shall not invalidate the work contract in respect to the rights of the foreign worker.

4. Upon the initial granting of the administrative work authorization, special criteria may be applied for determined nationalities in regard to the principle of reciprocity.

**Article 37. Work Permits for Self-Employed Workers.**

In order to carry out economic activities on a basis of self-employment, as merchant, industrialist, farmer or craftsman, the applicant must be proven to have applied for the corresponding administrative authorization when necessary, to meet all of the requirements which applicable legislation demands from nationals for the setting up and operation of the projected activity, and to obtain from the Ministry of Labour and Social Affairs the authorization referred to in article 36 of this Law.

**Article 38. Work Permits for Non-Self-Employed Workers.**

1. In the initial granting of a work permit, in the case of non-self-employed workers, the national employment situation shall be taken into account.

2. The work permit shall have a duration of less than five years and may be limited to a determined territory, sector or activity.

3. Upon its expiration, the work permit shall be renewed if:

   a) The contract or work offer which justified its initial grant still exists or is renewed, or when there exists a new work offer in the terms established by regulation.

   b) When a contributory unemployment benefit has been granted by the appropriate authority, in conformity with Social Security regulations, for the duration of said benefit.

   c) When the foreign national is the beneficiary of an public economic benefit, with the object of his social or occupational integration, for the duration of the same.

   d) When there exist circumstances established by regulation. After the first grant, permits shall be granted without limitation as to geographical location, sector or activity.

**Article 39. The Contingent of Foreign Workers.**

The Government, taking into account the national employment situation, the proposals raised by the Autonomous Communities and hearings by the Superior Council on Immigration Policy and the most representative unions and trade organizations, shall establish annually, provided the need for manpower exists, a
contingent for this purpose in which the number and characteristics of the work offers offered to foreign workers who are not in or residents of Spain shall be fixed, with an indication of their sectors and professional activities. To this effect, the proposals which may be made by the Autonomous Communities shall include the number of work offers and the professional characteristics of the workers.

Article 40. Specific Cases.

The national employment situation shall not be taken into account when the work contract or job offer is directed toward:

a) The covering of positions of special trust in the terms provided by regulation.

b) The spouse or child of a foreign national residing in Spain with a renewed permit.

c) The holders of a previous authorization who wish to renew it.

d) Workers necessary for the setting up or renovation of a production facility or team.

e) Those who have had the condition of refugees during the year following the cessation of the application of the Geneva Convention of 1951, regarding the Status of Refugees, for the motives established in its article I.C.5.

f) Those who have been recognized as stateless and those who have lost the condition of being stateless the year following the termination of said statute.

g) Foreign nationals who have in their charge relatives in the ascending or descending line of Spanish nationality.

h) Foreign nationals born and residing in Spain.

j) Children or grandchildren of Spanish origin.

j) Foreign minors of working age holding a residency permit who are under the guardianship of an appropriate minor protection agency, for those activities which, in the judgment of said organization, promote their social integration, and once the impossibility of their return to their family or country of origin has been proven.

k) Foreign nationals who obtain a residency permit through the procedure provided by article 31.3 of the present Law. Said permit will have a duration of one year.

Article 41. Exceptions to Work Permits.

1. A work permit shall not be required for the following activities:
a) Foreign technicians and scientists invited or contracted by the State, the Autonomous Communities, or local organizations.

b) Foreign professors invited or contracted by a Spanish university

c) The administrative personnel and foreign teaching staff of cultural or educational institutions dependent upon other States, or private, of accredited prestige and officially recognized in Spain, which offer in our country cultural and educational programmes from their respective countries, provided that they limit their activities to such programmes.

d) Civil servants and military personnel of foreign state administrations who come to Spain to carry out activities under agreements of cooperation with the Spanish Government.

e) Foreign correspondents of the social communication media, duly accredited for the exercise of informative activities.

f) Members of international scientific delegations carrying out projects and research in Spain, authorized by the State.

g) Artists who come to Spain for specific performances which do not involve a continued activity.

h) Ministers, clergy or representatives of the various churches and religions, duly registered in the Register of Religious Bodies, provided that they limit their activities to strictly religious functions.

j) Foreign nationals who form part of the representation, government and administration of internationally recognized trade unions, provided that they limit their activities to strictly unionist functions.

j) Spaniards by origin who have lost their Spanish nationality.

2. The procedure for accrediting an exception shall be established by regulation.

3. In like manner, those foreign nationals in the situation of permanent residency established in article 32 of this Organic Law shall not be required to apply for a work permit.

**Article 42. Special Ruling for Seasonal Workers.**

1. For those foreign workers employed in seasonal activities or operations, the Government shall control by regulation work permits allowing them to enter and leave Spanish territory in accordance with the characteristics of said operations
and the information provided by the Autonomous Communities in which these activities are carried out.

2. For these work permits to be granted a guarantee must be given that the seasonal workers will be housed in conditions of dignity and adequate hygiene.

3. The bodies of Public Administration shall ensure that adequate social services are provided.

Article 43. Cross-Border Workers and Multi-National Service Benefits.

1. Foreign workers who, residing in a bordering area, carry out their activities in Spain and return daily to their place of residence, must obtain the corresponding administrative authorization, with the requirements and conditions with which authorizations under the general ruling are granted.

2. The conditions for work permits within the framework of multi-national service benefits shall be established by regulation, in accordance with the applicable ruling.

Chapter IV

On Fees for Administrative Authorizations

Article 44. Object of Fees.

1. Fees shall be regulated by the present Law and by the other regulatory sources established for fees in article 9 of Law 8/1989, of 13 of April, on Fees and Public Prices.

2. The object of these fees is constituted as the granting of administrative authorizations and the issue of the identity documents provided by the Law, as well as their extensions, modifications, and renewals; in particular:

a) The issuance of entry visas in Spain.

b) The granting of authorizations for the extension of a stay in Spain.

c) The granting of residency permits in Spain.

d) The granting of work permits.

e) The granting of student cards.

f) The issuance of identity documents for undocumented foreign nationals.
Article 45. Amount Due.

Fees shall be due when the authorization, extension, modification or renewal is granted, or when the document is issued.

Article 46. Subjects to Fees.

1. Subject to fees shall be those persons in whose favour authorizations have been granted or for whom the documents provided by article 44 have been issued, except for work permits for non-self-employed workers, in which case the subject will be the employer or business.

2. Any agreement in which the non-self-employed worker assumes the obligation to pay all of or part of the cost of the fees established for the granting, renewal, modification or extension of a work contract shall be considered null and void.

Article 47. Exemption.

Not obligated to pay fees for the issuance of work permits shall be Latin American, Philippine, Andorran, and Equatorial Guinean nationals, Sephardic Jews, children and grandchildren of Spanish origin, and foreign nationals born in Spain, when they propose to engage in a lucrative activity, professional or non-professional, on a basis of self-employment.

Article 48. Amount of Fees.

1. The amount of the fees shall be established by Ministerial Order of the competent Departments.

2. The regulations determining the amount of fees must be accompanied by a financial statement on the cost of the activity in question and on the justification for the proposed amount, which must conform to the provisions of articles 7 and 19.2 of Law 8/1989, of 13 April.

3. The following are considered essential elements and criteria of quantification, and may only be modified though a regulation of the same rank:

   - In the issuance of visas for entry into Spain, the limitation of the effects of the visa on airport transit, duration of stay, the number of authorized entries, as well as, if it be the case, the fact that it is issued at a border. Also considered in the determination of the cost of this fee shall be the complementary costs originating from the issuance of the visa when, at the interested party’s request, use must be
made of procedures such as messengers, electronic mail, express mail, fax, telegrams, or teleconferencing.

-In the granting of authorizations for the extension of a stay in Spain, the duration of the extension.

-In the granting of residency permits, the duration of the permit, as well as its definitive or temporary nature and, among these latter, whether it concerns first or later grants or their renewals.

- In the granting of work permits, the duration of the permit, its extension and scope, the nature and variety of the non-self-employed work relationship, as well as, if it be the case, the amount of salary agreed upon.

-In the granting of student cards, the duration of the permit and whether it concerns first or later grants or their renewals.

In any case, the individual or collective nature of the permits, extensions, modifications or renewals themselves shall be a quantifying criteria in determining the amount of fees.

4. The amount of the fees for the issuance of visas shall be adapted to the revision provided for by the application of Communitary Law. In like manner, they shall also conform to the costs which may be established through the application of the principle of reciprocity.

**Article 49. Management, Collection and Self-Liquidation.**

1. The management and collection of fees shall correspond to the competent systems within the various Ministerial Departments for the granting of authorizations, modifications, renewals and extensions, and for the issuance of the documentation referred to in article 44.

2. The subjects of the fees shall be required to perform operations of tributary self-liquidation and to deposit the amount in the Treasury when it is thusly stipulated by regulation.

**TITLE III**

On Infractions Involving Immigrants and their Sanctioning Regulations.

**Article 50. Sanctioning Power.**

The exercise of sanctioning power for the committing of the administrative infractions established in the present Organic Law shall be adapted to the
provisions of the same and in its developmental provisions, and in Law 30/1992, Judicial Ruling on Public Administrations and Common Administrative Procedure.

**Article 51. Types of Infractions.**

1. Administrative responsibility shall be incurred by those who are the perpetrators of or participate in any of the infractions typified in the following articles.

2. The administrative infractions established in the present Organic Law are classified herein as: slight, serious and very serious.

**Article 52. Slight Infractions.**

Slight infractions are:

a) Failure or delay in notifying the Spanish authorities of changes in nationality, marital status, or domicile, or of other determining circumstances in the subject’s work situation when this is required by applicable regulation.

b) Delay, of up to three months, in applying for the renewal of authorizations once they have expired.

c) Working in Spain without having applied for an administrative work authorization for self-employed workers when in possession of a temporary residency permit.

**Article 53. Serious Infractions.**

Serious infractions are:

a) Being in Spanish territory illegally, through not having obtained or for their having expired for more than three months an extension of stay, a residency authorization or analogous documents, when they are required, and provided that the interested party has not applied for their renewal within the time limit specified by regulation.

b) Working in Spain without having obtained a work permit or prior administrative work authorization, when not in possession of a valid residency authorization.

c) Committing an act of fraudulent concealment or serious falsification in complying with the obligation to notify the Ministry of the Interior of changes affecting nationality, marital status or domicile.

d) Non-observance of measures imposed for reasons of public security, of periodic presentation or of removal from borders of individually specified population centres, in accordance with that established in the present Law.
e) Committing a third slight infraction if, within a period of one year prior to this, the subject has been sanctioned for two slight infractions of the same nature.

f) The foreign national’s participation in activities contrary to public order classed as serious under Organic Law 1/1992, of 21 February, regarding the Protection of Citizen Security.

g) Departures from Spanish territory through unauthorized border posts, not showing the required documentation or contravening legally imposed prohibitions.

Article 54. Very Serious Infractions.

1. Very serious infractions are:

a) Participating in activities contrary to the external security of the State or which might endanger the relationships of Spain with other countries, or being implicated in activities contrary to the public order classed as very serious under Organic Law 1/1992, of 21 February, regarding the Protection of Citizen Security.

b) Inducing, causing, favouring or facilitating, as part of a lucrative organization, the clandestine immigration of persons in transit through or having Spanish territory as their destination, provided that this does not constitute a crime.

c) The committing of discriminatory acts for racial, ethnic, national or religious motives, in the terms established under article 23 of the present Law, provided that this does not constitute a crime.

d) The hiring of foreign workers without having first obtained the corresponding work permit, incurring in one infraction for each of the foreign workers involved.

e) Committing a third serious infraction if, within a period of one year prior to this, sanctions have been given for two serious infractions of the same nature.

2. Other serious infractions are:

a) The transport of foreigners by air, land, or sea, into Spanish territory, for those responsible for the transport, without having verified the validity and duration of the corresponding visas of which said foreigners must be holders, on passports, travel permits, or the pertinent documents of identity, as the case may be.

b) The non-observance of the obligation which carriers have to take charge of, without loss of time, the foreign national being transported who, for problems with the previously cited documentation, has not been authorized to enter Spain.

This obligation shall include the expenses for the maintenance of said foreign national and, if requested by the authorities in charge of entry control, those
derived from his transport, to be effected immediately, whether by the company being sanctioned or by another transport company, to the State from which he has been transported, to the State which issued the travel document under which he is travelling, or to any other State to which his admission is guaranteed.

That established in the two preceding letters is also understood to apply to air or sea transport from Ceuta or Melilla to any other point within Spanish territory.

3. That established in preceding articles notwithstanding, it shall not be considered an infraction to transport into Spanish territory a foreign national who, having presented without delay a request for asylum, has had this admitted for processing, in conformity with the provisions of article 4.2 of Law 5/1984, of 26 March, modified by Law 9/1994, of 19 May.

**Article 55. Sanctions.**

1. The infractions typified in the preceding articles shall be sanctioned in the following terms:

   a) Slight infractions with a fine of up to 50,000 pesetas.

   b) Serious infractions with a fine of 50,001 to 1,000,000 pesetas.

   c) Very serious infractions with a fine of 1,000,001 to 10,000,000 pesetas.

2. The imposition of sanctions for administrative infractions established under the present Organic Law shall correspond to the Sub-Delegate of the Government or the Delegate of the Government in one-province Communities.

   In cases classed as slight infractions under article 52.c), serious under article 53.b), when self-employed workers are concerned, and very serious under article 54.1.d), the sanction procedure shall be initiated by action of the Labour and Social Security Inspector, in accordance with what is established in the sanctioning procedure for infractions of the public order, the imposition of sanctions corresponding to the authorities referred to in the preceding paragraph.

3. For the gradation of sanctions, the body competent for their imposition shall adjust them to criteria of proportionality, by evaluating the degree of guilt and, if it be the case, the damage caused or the risk derived from the infraction and its consequences.

4. For the determination as to the amount of the sanction, the economic capacity of the infractor will be taken into special consideration.

5. Provided that they do not belong to a third party not responsible for the infraction, in the case of letter b) of paragraph 1 of article 54, vehicles, vessels,
aircraft, and transportable or fixed goods, whatever their nature, which have served as instruments for the committing of said infraction, shall be subject to confiscation.

For the purpose of guaranteeing the effectiveness of the confiscation, the goods, effects and instruments referred to in the preceding paragraph shall be seized and placed at the disposal of governmental authorities, from the first interventions, as a result of the sanctioning order resolving matters pertaining to confiscated goods.

6. In the case of the infraction described in letter d) of paragraph 1 of article 54 of the present Law, the governmental authority may effect, without prejudice to the corresponding sanction, the closure of the establishment or place of business from six months to five years.

Article 56. Prescription of Infractions and Sanctions.

1. Very serious infractions shall not be sanctionable after three years, serious infractions after two years and slight infractions after six months.

2. Sanctions imposed for very serious infractions shall be prescribed for five years, for serious infractions for two years, and for slight infractions for one year.

3. If the sanction imposed is expulsion from national territory the prescription shall not begin to be counted until the period for the prohibition of entry fixed in the resolution has passed, with a maximum of ten years.

Article 57. Expulsion.

1. When the infractors are foreign nationals and perform actions classed as very serious, or serious, under the criteria of paragraphs a), b), c), d) and f) of article 53 of this Organic Law, expulsion from Spanish territory may be applied in place of the sanction of a fine, after the processing of the corresponding administrative case.

2. In like manner, constituting cause for expulsion, after the processing of the corresponding administrative order, shall be the case that the foreign national has been convicted, in or outside Spain, of fraudulent actions which constitute in our country crimes sanctioned with penalties of privation of liberty of greater than one year, unless the subject’s criminal record has been cleared.

3. In no case may the sanctions of fine and expulsion be jointly imposed.

4. Expulsion shall bear with it, in all cases, the cancellation of all authorization to remain in Spain of which the expelled foreign national was holder.

5. Unless the infraction committed is that described in article 54, letter a) of paragraph 1, or a re-incidence within the period of one year of an infraction of the
same nature sanctionable with expulsion, the sanction of expulsion may not be imposed on foreign nationals in the following situations:

a) Those born in Spain who have resided legally in the last five years.

b) Those recognized as having permanent residency.

c) Those who are Spanish by origin but have lost their Spanish nationality.

d) Those who are beneficiaries of a permanent disability benefit as consequence of a work-related accident or illness occurring in Spain, as well as those who receive a contributory unemployment benefit or are beneficiaries of public economic assistance with the purpose of achieving their social or professional incorporation or re-incorporation.

6. Neither may spouses of foreign nationals, relatives in the ascending line and minor children or disabled persons under the charge of a foreign national in one of the situations previously indicated and residing legally in Spain for more than two years, be expelled; nor may pregnant women, when the measure might present a risk to the pregnancy or to the health of the mother.

7. When a foreign national has been tried and found guilty in a proceeding for crimes punishable by penalties of privation of liberty for periods of less than six years, the Judge may authorize, after a hearing with the Public Prosecutor, his departure from Spanish territory, provided that the requirements established under the Law of Criminal Prosecution are met, or his expulsion, if this is appropriate in accordance with the provisions of the preceding paragraphs of the present article, after substantiation of the corresponding administrative sanctioning procedure.

The provisions contained in the preceding paragraph shall not be applicable in the case of crimes described in articles 312, 318 bis., 515.6º, 517 and 518 of the Penal Code.

In the case of foreign nationals who are not legal residents of Spain and are convicted under a final judgment, the provisions of article 89 of the Penal Code shall be applicable.

8. When foreign nationals, resident or not, have been convicted of actions classed as crimes under articles 312, 318 bis., 515.6º, 517 and 518 of the Penal Code, expulsion shall take effect once the penalty of privation of liberty has been complied with.

9. The interested party must be notified of the resolution of expulsion, with an indication of the appeals which may be made against the same, the body before which they must be presented, and the time limits for the presentation.
Article 58. Effects of Expulsion and Repatriation.

1. All expulsions shall bear with them the prohibition of entry into Spanish territory for a minimum of three years and a maximum of ten.

2. A case of expulsion shall not need to be filed for the repatriation of foreigners in the following cases:

   a) Those who, having been expelled, contravene the prohibition of entry into Spain.
   
   b) Those who attempt to enter the country illegally.

3. In the case that a request for asylum has been submitted for persons in any of the cases mentioned in the preceding paragraph, their repatriation may not be effected until the inadmissibility of the request has been decided, in conformity with asylum regulations.

   Neither may pregnant women be repatriated when the measure might present a risk to the pregnancy or to the health of the mother.

4. Repatriation shall be decided upon by the governmental authorities competent for the expulsion.

5. Repatriation decided upon in the application of letter a) of paragraph 2, shall bear with it the re-initiation of the calculation of the period of prohibited entry established in the violated expulsion order. Likewise, in this case, when the repatriation cannot be executed within a period of seventy-two hours, the governmental authorities shall request from judicial authorities the measure of internment provided for in cases of expulsion.

Article 59. Collaboration against Organized Networks.

1. The foreign national who has crossed the Spanish border outside the steps established for this purpose or who has not complied with his obligation to declare entry and is in Spain illegally or working without permission, without documentation or with illegal documentation, through having been victim of, harmed by, or witness to an act of illicit trafficking of human beings, illegal immigration, or trafficking in manpower or exploitation through prostitution by the abuse of his situation of necessity, may be declared exempt from administrative responsibility and not expelled if he reports to the appropriate authorities the perpetrators or cooperatives of said trafficking, or cooperates and collaborates with the competent immigration officials, providing essential information or testifying, if it be the case, in the corresponding legal proceedings taken against said perpetrators.

2. The competent administrative bodies charged with examining the sanctioning order shall present the appropriate proposal to the authority which must resolve it.
3. Foreign nationals declared exempt from administrative responsibility may be granted, at their choice, repatriation to their country of origin or residency in Spain, as well as a work permit and assistance in their social integration, in accordance with what is established in the present Law.

4. When the Public Prosecutor becomes aware that a foreign national against whom an expulsion order has been issued appears in a criminal procedure as victim, injured party or witness and considers that said foreigner's presence is essential for the carrying out of judicial proceedings, it shall be manifested to the competent governmental authority that non-execution of the expulsion is called for and, in the case of its having already been executed, in like manner the foreigner's return to Spain shall be authorized for the time necessary to carry out the necessary proceedings, without dismissing the possibility that the measures provided by Organic Law 19/1994, of 23 December, may be adopted for the protection of witnesses and experts in criminal cases.

Article 60. Repatriation.

1. Foreign nationals who at the border are not permitted to enter the country shall be returned to their point of origin in the briefest period of time possible. The governmental authority which decides on the repatriation shall consult the Examining Magistrate if the repatriation will be delayed for more than seventy-two hours in order to determine the place where such foreigners are to be interned until repatriation is effected.

2. Internment centres for foreign nationals shall not be of a penitentiary nature and shall be equipped with social, legal, cultural and health services. Foreign nationals who are interned shall be deprived solely of the right to free movement.

3. During his internment the foreign national shall be at all times at the disposition of the judicial authority authorizing the internment, the governmental authority being required to report to the same all significant circumstances regarding interned foreigners.

4. The detention of a foreign national with the object of repatriation shall be communicated to the Ministry of Foreign Affairs and to the Embassy or Consulate of his country.

Article 61. Precautionary Measures.

1. During the processing of sanctioning orders in which a proposal for expulsion has been formulated, the governmental authority competent for its resolution may decide upon, at the petition of the examiner and with the object of assuring the efficiency of the final resolution, some of the following precautionary measures:

a) Periodic presentation before the competent authorities.
b) Obligatory residence in a specified place.

c) Withdrawal of passport or document accrediting nationality, after first providing the interested party with a safeguarding document to this effect.

d) Precautionary detention, by the governmental authority or its agents, for a maximum period of seventy-two hours, after filing the request for internment.

Any other case of detention must be placed at legal disposition within a time period of no more than 72 hours.

e) Protective custody, following legal authorization, in internment centres.

2. In sanctioning procedures for the committing of infractions by carriers, if these infringe upon the obligation of taking charge of the illegally transported foreign national, it may be decided to suspend the carrier’s activities, deposits and backing, or to immobilize the means of transport used.

Article 62. Ingression in Internment Centres.

1. When the case pertains to foreign nationals in the situations described in letters a) and b) of paragraph 1 of article 54, as well as a), d) and f) of article 53, in which expulsion is proposed, the governmental authority may propose to the appropriate Examining Magistrate that the foreign national be ingressed in an internment centre while the sanctioning order is being processed. The legal decision regarding the request for internment of a foreign national pending expulsion shall be adopted as a justified sentence, after a hearing with the interested party.

2. Internment shall be maintained for the length of time essential for the object of the order, in no case exceeding forty days, nor will a new internment be ordered for any of the causes in the same case. The judicial decision authorizing it, in light of the circumstances in each case, may fix a maximum period for the internment’s duration inferior to that already cited.

3. Minors whose cases meet the provisions established for internment shall be placed at the disposition of the competent minor protection agencies. The Juvenile Court Judge, upon receiving a favourable report from the Public Prosecutor, may authorize ingress in an internment centre for foreign nationals when the minor’s parents or guardians have also been ingressed there, when these last request it, and when there exist factors guaranteeing the preservation of family unity.

4. The opening of the case, the precautionary measures of detention and internment and the final resolution in a case for the expulsion of a foreign national shall be communicated to the Ministry of Foreign Affairs and to the Embassy or Consulate of his country.
Article 63. Preferential Procedure.

1. The processing of expulsion cases, in the situations described in letters a) and b) of paragraph 1 of article 54, as well as a), d) and f) of article 53 shall have a preferential nature. (being in Spain illegally)

2. When from the investigations made expulsion is decided upon, a justified proposal for this in writing shall be brought to the interested party, so that he may state what he feels to be appropriate, within a period of forty-eight hours. In those cases in which the foreign national is held in protective custody, he shall have the right to legal assistance, provided ex officio, if it be the case, and to the services of an interpreter, free of charge in the case that he lacks economic resources.

3. In the case of letter a) of article 53, when the foreign national is proven to have previously requested a temporary residency permit for a situation of cultural rooting, in conformity with the provisions of article 31.4 of this Law, the body charged with processing the expulsion shall continue it, if necessary, under the procedure established in article 57.

4. The execution of the expulsion order in these cases shall be effected immediately.

Article 64. Execution of the Expulsion.

1. Once notified of the expulsion resolution, the foreign national shall be obligated to abandon Spanish territory within the fixed period of time, which in no case may be less than seventy-two hours, except in those cases in which preferential procedure is applied. In the case of non-observance, the foreign national shall be detained and transported to the departure post at which the expulsion is to take place. If it is not possible to execute the expulsion within the seventy-two-hour time period, the measure of internment regulated in the preceding articles may be requested, not to exceed forty days.

2. The execution of the expulsion resolution shall be made at the cost of the foreign national if he has the economic means for this. If not, the diplomatic representative or consular official of his country will be notified so that appropriate action may be taken.

3. The execution of an expulsion resolution shall be suspended when a formal request for asylum has been made, until this has been considered inadmissible or resolved, in conformity with asylum regulations.

4. The opening of a case for expulsion shall not be required in order to proceed with the removal, escorted by officials, of asylum applicants whose request has been rejected by application of letter e) of article 5.6 of Law 5/1984, of 26 March, upon another State being responsible for reviewing the request, in conformity with
the international agreements of which Spain is part, when said transportation is carried out within the time limits which the responsible State has for the review of the request.

Article 65. The Appealable Nature of Resolutions regarding Foreigners.

1. Sanctioning administrative resolutions shall be appealable according to the provisions of the laws. Regulations in regard to appeals shall be those provided of a general nature.

2. In any case, when the foreign national is not in Spain, he may file the relevant appeal procedures, as much administrative as jurisdictional, through the corresponding diplomatic or consular representations, which will present them to the competent body.

Article 66. Obligations of Carriers.

All companies, transport agencies or carriers shall be obligated to:

a) Perform the proper verification of the validity and duration of the visas of which foreign nationals must be holders, on passports, travel permits or pertinent identity documents, as the case may be.

By reason of the special circumstances involved in land transport, the obligations referred to in the preceding paragraph shall be applicable exclusively to the international land transport of foreign nationals and only from the moment at which the variations, requirements and conditions of their compliance are established by government regulation.

b) Take immediate charge of the foreign national who has been transported to the air, sea, or land border corresponding to Spanish territory, if he has been denied entry for deficiencies in the documentation necessary for crossing frontiers.

c) Transport said foreign national back to the State from which he has been transported, to the State which has issued the travel document under which he has travelled, or to any other State where his admission is guaranteed.

TITLE IV

Coordination of Public Authority

Article 67. Coordination of State Administrative Bodies.
1. The Government shall carry out a continuous observation of the magnitude and most significant characteristics of the migratory phenomenon with the object of analysing its impact on Spanish society and facilitating objective and contrastive information to prevent or hinder the emergence of xenophobic or racist tendencies.

2. In provincial offices, the Government shall unify the existing services, provided by the various State Administrative Bodies related to immigration, with the object of arriving at an adequate coordination of administrative action.

3. The Government shall develop plans, programmes and guidelines regarding the activities of the Labour Inspector following sanctioning procedures directed especially at verifying compliance with the principles of equality and non-discrimination for foreign workers, as well as for an effective compliance with the regulations regarding work permits for foreign nationals, all of the above without prejudice to the planning powers which correspond to the Autonomous Communities in the matter of labour legislation.

Article 68. The Superior Council on Immigration Policy.

1. To assure an adequate coordination of the activities of Public Administrative Bodies relevant to the social integration of immigrants, a Superior Council on Immigration Policy shall be created, in which representatives of the State, of the Autonomous Communities and of the municipalities shall participate.

2. Said body shall establish the bases and criteria upon which a general policy regarding the social integration and labour of immigrants shall be founded, and for which it shall gather information and advice from the administrative bodies in the State or Autonomous spheres, as well as from the social or economic agents involved with immigration and the defence of the rights of foreign nationals.

3. The Government shall complement and regulate, by Royal Decree, the composition, functions and operational policies of the Superior Council on Immigration Policy.

Article 69. Support for the Associative Movement of Immigrants.

The public authorities shall promote the strengthening of the associative movement among immigrants and shall support the unions, trade organizations and non-governmental organizations which, without lucrative ends, promote their social integration, by providing economic assistance, as much through programmes of a general nature as through those related to specific activities.
**Article 70. The Forum for the Social Integration of Immigrants.**

1. The Forum for the Social Integration of Immigrants, comprised, in a balanced, tripartite structure, of representatives of Public Administrative Bodies, immigrant associations, and social assistance organizations, among them trade unions and professional organizations with interests and presence in the area of immigration, constitutes the agency of consultation, information and advice on the subject of immigrant integration.

2. Its composition, authorities, operational policies and administrative attributes shall be determined by regulation.

**First Additional Provision. Time Limits for the Resolution of Cases.**

1. The general maximum time limit for the notification of the resolution of permit requests formulated by interested parties under the provisions of this Law shall be three months, counted from the date following that on which they have been entered into the register of the office competent for their processing. Once the time limit for the notification of the resolutions of requests has passed, except in the instance described in the following paragraph, they may be understood as rejected.

2. Requests for the extension of residency permits as well as for the renewal of work permits formulated by interested parties under the provisions of the present Organic Law shall be resolved and notification given within a maximum period of three months counted from the date following that on which they have been entered into the register of the office competent for their processing. When this time limit has passed without the Administration giving an express response, it shall be understood that the extension or renewal has been granted.

**Second Additional Provision. Sub-Commissions of Cooperation.**

In view of the territorial situation, of the special incidence of the migratory phenomenon and of the agencies which are recognized in their respective Statutes of Autonomy for the execution of labour and social assistance, and in concordance with the same, sub-commissions may be constituted within the Bilateral Commissions of Cooperation between the State and the Autonomous Communities, in concordance with the provisions their respective Statutes of Autonomy, to analyse issues regarding the work and residency situation of the foreign nationals which directly affect them.

In particular, considering the geographic situation of the Canary Archipelago, the fragility of its island territories, and its distance from the European Continent, in accordance with that established in article 37.1 of its Statue of Autonomy, a sub-commission will be created within the Bilateral Commission of Canaries-State Cooperation to study the issues which directly affect the Canary Islands in the matter of work and residency for foreigners.
Third Additional Provision. The Penal Code.

The Ministries of Justice and the Interior shall adopt the measures necessary to enable the Technical Commission created within the Ministry of Justice for the study of the reform of the penalty system of the Penal Code to examine the necessary modifications regarding crimes of illegal trafficking of persons, particularly in those cases involving organizations which, motivated by profit, promote said trafficking.

Fourth Additional Provision.

Article 89 of the Penal Code is modified by the addition of this new paragraph.

“4. The provisions established in the preceding paragraphs shall not be applicable to foreign nationals who have been convicted of crimes referred to in articles 312, 318 bis., 515.6º, 517 and 518 of the Penal Code.”

First Transitory Provision. Validity of Existing Permits.

1. The various permits and cards which allow persons included within the scope of the present Law to enter, reside and work in Spain, and which have validity at the time of the coming into force of the same, will retain this validity for the period of time for which they have been issued.

2. Requests presented prior to the coming into force of this Law shall be processed and resolved in conformity with the regulations valid at the moment of the request, except in the case that the interested party requests the application of those provided by the present Law.

3. Upon renewal, holders of an initial work permit B may obtain a work permit C, and holders of work permits B renewed or C, a permanent permit. A table of equivalencies to permits issued prior to the Law shall be established according to regulation.

Second Transitory Provision. Regulations Applicable to Procedures in Progress.

Administrative procedures in progress shall be processed and resolved in accordance with the regulations valid at the moment of their initiation, except when the interested party requests the application of the present Law.
Third Transitory Provision. Fees.

Until the provisions established in Chapter IV of Title II have been implemented, the regulations regarding fees for the granting of permits and immigration authorizations shall remain in force, as shall their modifications, extensions and renewals.

Fourth Transitory Provision.

The Government shall establish by Royal Decree the requirements which permit, without the necessity of presenting new documentation, the legalization of foreign nationals who are in Spain and who, having presented a request for legalization under the protection provided by Royal Decree 239/2000, of 18 February, have had this denied, exclusively, for not having complied with the requirement of being in Spain prior to 1 June, 1999.

Derogatory Provision.

1. All regulations of equal or inferior rank which contradict or oppose the present Law are hereby abolished.

2. In like manner, paragraph D of article 5.III of Law 7/1987, of 29 May, regarding consular fees, is hereby abolished.

First Final Provision. Modification of Article 312 of the Penal Code.

Paragraph 1 of article 312 of the Penal Code shall be written in the following manner:

“Article 312.

1. Those who illegally traffic in manpower shall be punished with penalties of two to three years imprisonment and fines of six to twelve months.”

Second Final Provision. Inclusion of a New Title XV bis. in the Penal Code.

A new Title XV bis. is hereby introduced, written as follows:

“Title No. XV.

1. Those who promote, favour or facilitate the illegal trafficking of persons from, through or with a destination of Spain shall be punished with penalties of six months to three years imprisonment and fines of six to twelve months.
2. Those who engage in the activities described in the preceding paragraph for lucrative ends, or employing violence, intimidation or deceit, or abusing the victim’s situation of necessity, shall be punished with penalties of two to four years imprisonment and fines of twelve to twenty-four months.

3. The corresponding penalties shall be imposed in the upper half of the degree of severity established in the preceding paragraphs when in committing these acts the lives, health or integrity of persons has been endangered or when the victim is a minor.

4. The same penalties described in the preceding paragraph, in addition to an absolute suspension of activities for six to twelve years, shall be incurred by those who commit these acts through an abuse of their condition as authority, agent of the same, or civil servant.

5. Penalties of a greater degree than those established in the preceding paragraphs shall be imposed, in their respective cases, when the guilty party belongs to an organization or association, even if of a transitory nature, which is dedicated to such activities.”

**Third Final Provision. Modifications in Articles 515, 517 and 518 of the Penal Code.**

1. A new paragraph 6º in article 515 is hereby added, written as follows:

“6º. Those which promote the illegal trafficking of persons.”

2. The first paragraph of article 517 is hereby modified, and shall be written as follows:

“In the cases described in numbers 1 and 3 to 6 of article 515, the following penalties shall be imposed:”

3. Article 518 is hereby modified, and shall be written as follows:

“Those who by their economic or any other type of cooperation, in all relevant cases, promote the foundation, organization or activities of the associations described in numbers 1 and 3 to 6 of article 515, shall incur a penalty of one to three years imprisonment, a fine of twelve to twenty-four months, and suspension from employment or public office for a period of one to four years.”

**Fourth Final Provision. Articles Ranking with the Organic Law.**

1. The following precepts of Law 4/2000 have an organic nature, according to the numeration established by this Law: the contents of Title I, except for articles 10,12, 13 and 14; from Title II, articles 25 and 31.2; and from Title III, articles 53,
54.1 and 57 to 64. Also having an organic nature are the second additional and derogatory provisions and the first paragraph of this first final provision to the present Law, as well as the first to third final provisions of Law 4/2000.

2. The precepts of the present Law which do not have an organic nature shall be understood as enacted under the protection of the provisions of article 149 1ª and 2ª of the Constitution.

Fifth Final Provision. Support of the Schengen Information System.

The Government, within the framework provided by the Schengen Implementing Agreement, shall adopt whatever measures are necessary to maintain the accuracy and updating of the data in the Schengen information system, by facilitating the exercise of the right to the rectification or suppression of data to the persons whose data are included in the same.

Sixth Final Provision. Regulation of the Law.

Within a period of six months from the publication of the present Organic Law the Government shall approve the Regulation of Organic Law 4/2000, of 11 January.

Seventh Final Provision. Information about the Law to Interested Bodies and Organizations.

From the moment of the coming into force of this Law, the Government shall adopt the measures necessary to provide information regarding the application of the previous regulation, which supposes the approval of this Organic Law.

Eight Final Provision. Authorization of Credits.

The Government shall adopt the measures necessary to meet the expenses originated by the application and enforcement of the present Law.

Ninth Final Provision. Coming into Force.

This Organic Law shall come into force in the month of its complete publication in the Official Bulletin of the State.