

# ORGANISATION OF MIGRATION AND ASYLUM SYSTEM IN SPAIN

## OVERVIEW

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### INTRODUCTION

This document provides an overview of how asylum and migration policies are organised in Spain, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on the information provided by Spain in September 2020

*Directorates, one for Migration (legal migration and legal affairs) and another for Inclusion and Humanitarian Assistance, also in charge of the reception system.*

*In addition, there are four collegiate bodies that carry out different support tasks to guide and define political decisions: the Interministerial Commission on Aliens, the Tripartite Labour Commission on Immigration, the Spanish Observatory on Racism and Xenophobia and the Forum for the Social Integration of Immigrants.*



### OVERVIEW OF ORGANISATION OF LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

#### THE INSTITUTIONAL CONTEXT

*With regard to the general structure of the Spanish political system, the competences relating to migration and asylum are mainly divided between three ministries: The Ministry of Inclusion, Social Security and Migration, the Ministry of Interior and the Ministry of Foreign Affairs, European Union and Cooperation.*

*The Ministry of Interior has a responsibility in the enforcement field on foreigners, asylum, refuge, statelessness and protection of displaced persons, as well as the surveillance of the coasts, borders, ports, airports and territorial seas and, in this area, the control of irregular immigration.*

*The Ministry of Foreign Affairs, European Union and Cooperation is responsible for coordinating and supervising all the actions of the Spanish consular offices which are provided abroad, including the management of visa policy.*

*Within the structure of the Ministry of Inclusion, Social Security and Migration, it is the responsibility of the Secretary of State for Migration to design and develop the Government's policy on foreigners, immigration and emigration. This Secretary of State for Migration is divided into two General*

*Mention should also be made of the Spanish Agency for International Development Cooperation (AECID), which, despite not being a body with direct competence in the field of migration, participates tangentially in immigration issues, mainly through international development cooperation*

programmes in some countries of origin/transit of immigration.

In addition, a fourth department, the Ministry of Justice, is responsible for granting Spanish nationality on the grounds of residence to those immigrants who legally reside in Spain and apply for it.

Finally, the Attorney-General Office, through its Aliens Unit, is responsible for coordinating and supervising the Aliens Sections of the regional prosecutor's offices in the following fields: prosecution of the crimes of trafficking in human beings and coercive prostitution and the crime of illegal trafficking of immigrants. In the case of unaccompanied foreign minors, it is responsible for taking part in age determination and repatriation files.

Other territorial entities, namely the regional and local administrations, also participate in the Spanish immigration policy. For example, our regions are awarded the guardianship and care of the unaccompanied foreign minors. Similarly, although the Ministry of Inclusion, Social Security and Migration is responsible for the development of the integration policy, most of the sectoral competences related to integration policies (education, active employment policies, housing, health and social services) are under the responsibility of regional and local authorities.

Finally, mention should be made of the participation of the main social partners and non-governmental organisations. The latter are involved in the implementation of programmes, such as the voluntary return programmes, and also in the implementation of specific projects and activities, for example in the area of immigrant integration.

## THE LEGAL SYSTEM

The Spanish Constitution, in its article 13.1 states that "foreign nationals shall enjoy in Spain the public freedoms guaranteed by this Title (Title I on Fundamental Rights and Duties) under the terms established by the Treaties and the Law". This constitutional mandate is regulated by the Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their

social integration, and further developed on the Royal Decree 557/2011, of 20 April.

Moreover, Royal Decree 240/2007 of 16 February on the entry, free movement and residence in Spain of citizens of the Member States of the European Union and of other States parties to the Agreement on the European Economic Area, regulates the conditions for the exercise of the rights of entry and exit, free movement, stay, residence and work in Spain of the above-mentioned citizens.

In addition, Law 14/2013, of 27 September, on support for entrepreneurs and their internationalisation, facilitates the granting of visas and residence permits to this collective in order to attract investment and talent to Spain.

The right to asylum in Spain, also recognised in article 13 of our Constitution, is regulated by Law 12/2009, of 30 October, which regulates the right to asylum and subsidiary protection, and by the regulation on temporary protection in the event of mass influx of displaced persons approved by Royal Decree 1325/2003 of 24 October, and the regulation on the recognition of stateless persons, approved by Royal Decree 865/2001 of 20 July.

Finally, in Spain, the acquisition of nationality by naturalization certificate or by residence is regulated by the Civil Code (arts. 17 to 26). The acquisition of Spanish nationality, unlike the residence permit, implies that the person who acquires it enjoys all the rights that Spanish laws provide for their nationals by birth.



## INSTITUTIONAL CHART

