



# FREQUENTLY ASKED QUESTIONS ABOUT RESIDENCY PERMITS OWING TO EXCEPTIONAL CIRCUMSTANCES

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Residency permits for exceptional circumstances can be granted to foreigners who, owing to their particular situation, meet the requisites established in the Immigration Regulation laws.

One of the most common ways to get the Residency Permit for Exceptional Circumstances is 'The Social Arraigo', which is divided into: Labour, Social, Family or Job training Arraigo. For each of the above steps different requisites are needed as well as proof of a continued home address in Spain.

Below, you will find some of the most frequently asked questions about 'The Arraigo', although it is always best to request a personalised advice from SAIER. At the SAIER offices, you will find a specialised service to solve your personal doubts and process The Arraigo cases.

The validity of residency permits for exceptional circumstances can be for: a one-year's permit → a two-year's permit → a four-year's renewal.

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## **Labour *arraigo***

On June 8, 2021, the Secretary of State for Migration Instruction law 1/2021 was announced on the procedure relating to temporary residency permits for labour reasons. You can get more information on the subject in a piece of news written by SAIER on [this link](#).

### **1. Under what circumstance am I allowed to apply for the Labour Arraigo?**

When you can prove with evidence that you had previously been involved into a legal employment relationship or by living in the country for the last two years and being able to fulfil one of the following requisites:

- As an employee: 30 hours of work a week, as a minimum, during 6 months or 15 hours of week a work, for a period of 12 months.
- As self-employed: a continuous work activity for a period of 6 months, minimum.



## **2. What other requisites shall I meet?**

You have to be living in Spain for a continuous two years period, have a non-legal administrative situation and have no criminal records registered in your name.

## **Social arraigo**

### **3. What do I need to apply for Social Arraigo?**

You will need to have a pre-work contract for thirty hours of work a week, minimum, except for those with dependent minors or people who need support measures due to their legal condition, in which case, the number of working hours required is 20 a week. Meeting these requirements, you can present one or more contracts for different job activities.

In the case of The Social Arraigo without the permit to work, you will have to prove you are economically able to maintain yourself with 100% of the Annual Minimum wage.

### **4. What requirements will the company willing to hire me need to have?**

The employing business will have to be up to date with the Tax Authorities payments (The HMRC), The Social Security, present the Work Life History and the quarterly VAT paid.

Even if these conditions are met and the employing business has part-time personnel in their workforce, they will have to change those part-time contracts into full-time ones, before offering a non-EU citizen a job position.

If the employing person has recently set-up their business and one year has not gone by, a pre-job contract cannot be offered, because the Tax authorities will have to check on their benefits and financial capacity first.

If the employer is a person, not a company, they cannot have doubts in arrears either (with domestic workers, for instance).

### **5. If an individual person is willing to hire me, what requirements will they need to have?**

In this case, this person will need to prove their financial solvency in order to offer you this job contract. They will also be asked to present the proof of home address (the Padrón) which is the registration with the town hall - as they will need to have enough financial resources to maintain the people who live in the house.

### **6. What documents will they ask from me to apply for the Social Arraigo?**

In general terms, they will ask you for your passport, proof of a three year consecutive home address in Spain, a criminal record certificate from the country of origin and also the Social Integration Report. SAIER will analyse and explain to you in detail about the requisites of your individual situation.



## **7. Is knowing Spanish enough to apply for The Social Arraigo?**

No, proof of other requisites are needed in order to apply for the Social Arraigo. Apart from that, in Catalonia there are 2 common languages that go hand-in-hand and a basic knowledge of Catalan is needed to prove social links to this Community. However, Catalan is not a must in order to obtain The Social Arraigo.

## **8. How to process The Social Arraigo Report?**

This report is under the umbrella of the Generalitat, however, you apply for it at the City Council. The person needs to go to the Oficina de Atención a la Ciudadanía (Citizen Service Office/OAC) in the district where you are registered (your Padrón) and apply for the Social Arraigo Report.

## **9. If I manage to get a job offer before completing three years of residency in Spain, do I have to leave my country to process the work visa?**

If you are about to complete 3 years of residency, it's more sensible to stay in the country.

Getting a visa in the country of origin is more difficult, because Spain has a high unemployment rate and the job offers for foreign workers are high profiles. An exception is made only for Peru and Chile nationals, countries with special agreements and who are exempt from complying with the list of occupations difficult to fulfil. It is better to wait until you have completed the three years of continuous residency in Spain and then apply for The Social Arraigo.

## **10. How long is the Social Arraigo Report valid for?**

It is valid for 3 months.

## **11. What can I do if I already have all the documentation and I am unable to get an appointment to present them and apply for The Social Arraigo?**

You should print the screenshots where it says there is no appointment available in order to prove that the delay was not your fault.

## **12. If I applied for asylum and my application was denied, can I request The Arraigo?**

Yes, except for the Labour Arraigo, which is not compatible with the application for international protection? Additionally, both cases can be processed at the same time..

## **13. How long are the documents I ask from my country of origin valid for?**

The Local government office considers a document valid for the time stated in it by the country of origin. If there is not any stipulated time, the Spanish Government give it a period of validity of six months.



## Family arraigo

### 14. Am I allowed to apply for a residency permit as a Spanish person's family member?

Yes. If you are in the Spanish territory, are a direct member of a Spanish national and will live in Spain for more than three years, you are allowed to apply for a residency permit based on The Family Arraigo.

The family members who are allowed to apply for The Family Arraigo are: Spouses, same-sex marriage couples, ascendants, descendants and those who provide support for disabled Spanish nationals. Speak to SAIER to find out what requirements are needed to obtain a residency permit based on the Family Arraigo.

Family members of a Spanish person or any member of the European Economic Area or Switzerland can also apply for the EU Citizen Family Card (Community Card). In this case, the economic financial resources will have to be proven.

### 15. What changes have been introduced into the new law?

The new law reform establishes a family regime for the Spanish citizen who wants to keep their family unit in Spain.

The main change introduced was that the spouses, same-sex marriage couples, ascendants over 65 years old and descendants under 21 years of age will not need to produce economic financial resources.

Another change was the inclusion of an applicant who provides support to a disabled Spanish national in the exercise of their legal capacity, provided that the applicant is responsible for them and also lives with them.

### 16. Who is allowed to obtain this type of permit?

- Mother, father or guardian in charge of an underage Spanish national.
- A person who has a disabled Spanish national under their care and who lives with them.
- A spouse or a same-sex marriage couple of a person with Spanish nationality.
- Ascendants over the age of 65 of a person with Spanish nationality, their spouse or same-sex marriage couple.
- Ascendants under the age of 65 responsible for a person with Spanish nationality, their spouse or same-sex marriage couple.
- Descendants under the age of 21, with Spanish nationality, their spouse or same-sex marriage couple.
- Descendants over the age of 21 years old, responsible for a person with Spanish nationality, their spouse or same-sex marriage couple.
- Siblings of a Spanish citizen father or mother.

### 17. How long will the permit last for?

These permits will last for 5 years and they allow you to work for yourself or as an employee.



In the case of children of Spanish citizen parents, the permit is exceptional and lasts for a year. It is later on modified for one year and once it is renewed it will be valid for 4 years.

## **Education *arraigo***

### **18. What population profile is entitled to apply for Education Arraigo?**

To get the residency permit based on the Education Arraigo you will need prove to have previously lived in Spain for two years and accept one of the courses listed below:

- A government-run training course, a professional certificate, a technical aptitude certificate or a professional qualification necessary for the exercise of a specific job occupation<sup>1</sup>.
- Training course provided by the public occupation services (SOC) for people registered as jobseekers (according to the Immigration law).
- Permanent training course at university level to expand or update occupation skills and training or professional abilities.
- Job training aimed at gaining micro-expertise.

Three months after you have been given the residency permit, you will have to go to The Foreign Office and deliver your study enrolment on one of the courses stated above.

### **19. How long will this permit be good for?**

This residency permit will last for 12 months and can be renewed only one more time for another 12 months (when the course term exceeds the validity of the first permit granted).

Once the course is finished and during the residency permit validity, applying for a work permit is allowed. For that purpose, you will have to present a work contract that guarantees at least the minimum wage or the amount established by the trade collective agreement, as well as proof of having concluded the training course successfully. This permit will last for two years.

## **Cooperating with the labour authorities**

### **20. What kind of collaboration is involved in those situations ?**

The permit granted for collaboration with the labour authorities is the result of the former Labour Arraigo procedure. An exceptional residency and work permit will be granted for the collaboration with the Labour Inspection for those who:

- Are in a non-legal administrative situation (no minimum continuous residency time in Spain is required).
- Prove to have had in the last year an employment relationship for at least six months, written in a labour inspection report or a court resolution.



The application can be submitted by the foreign person or by the official labour authority. This type of residency permit will be valid for one year and will enable you to work as an employee or a self-employed person.

The concept of collaboration with the labour authorities, now only linked to the Labour Inspection, leaves out other avenues such as the conciliation report prior to the judicial claim or the ruling that recognized the period of work after the dismissal claim.

This is especially important when talking about household staff, where, due to the workplace features, which coincides with the occupant home address, there is a high level of difficulty for action by the Labour Inspection authorities, so it would leave them outside the scope of this control procedure, and which they could previously access through a court ruling or the conciliation record.

### **21. In order to apply for this permit, is it necessary to sue the employing business or person?**

Yes. It's necessary to demonstrate that the person has worked with no labour contract for at least 6 months. The lawsuit is carried out anonymously and can be processed through the Labour Inspection authority or the court.

Many people are fearful about filing a lawsuit against an employer, however, it is worse if the Labour Inspection authority shows-up unannounced and finds out that the person is working without the due permit. In a case like that, an expulsion procedure would be started against you.

If the person collaborates by complaining, the Labour Inspection authority will not start the expulsion order against you. On the contrary, the authority will write an infringement report stating that you have voluntarily acted in collaboration with the justice and, for this collaboration; you may be benefited with the residency and work permit.

### **22. How can an employment relationship be proven if there was not a work contract?**

All types of written documents and testimonies such as photos, videos, signatures on delivery notes or invoices, etc.

### **23. What if the Labour Inspection authority went to the place where I work and I was not there, what can I do?**

If the Labour Inspection lawsuit fails, you still have the court procedure possibility. The lawsuit can be started for dismissal or for compensation amounts.

### **24. What kind of permit Am I supposed to get?**

You will get a residency and work permit for one year. This permit will allow you to work as a self-employed person or as an employee without geographical or activity restrictions. In addition to that, this permit recognises the time you have worked in the past, for Social Security reasons.