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THE CREATIVE ARTIST ON THE GLOBAL MOVE- IMMIGRATION PLANNING FACILITATING THE ARTIST'S PURSUIT OF BRILLIANCE

“RENOWNED ARTISTS IN SPAIN”

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**UIA PRESENTATION
“RENOWNED ARTISTS IN SPAIN”**

by Marla Vanessa Bojorge Zúñiga

1. Introduction

This paper aims to present an overview of Spanish immigration law on renowned artists easily understood by a lay person in law, an artist, a human resources department or lawyer with no expertise in it.

The Spanish Constitution states that one of the Guiding Principles of the Economic and Social Policy that *public authorities shall promote and watch over access to culture, to which everyone is entitled*

2. Spanish law

According to **Workers' Statute**, the rule governing the rights of workers in Spain, is configured as a special employment relationship with scope in a Royal Decree, and to what workers and syndicate leaders of the companies may pact.

According to standard situations that **would fall** within its scope would be:

- The *special relationship of artists working on shows* established between an organizer of public entertainment or employer and who voluntarily engage in the provision of an artistic activity by account, and within the field of organization and direction of those, in exchange for a retribution.
- *All relationships established for the implementation of artistic activities*, to the extent described in the previous section, performed directly before the public or intended for recording of any kind for dissemination to the same media as theater, motion picture, radio , television, arenas, sports facilities, circus, clubs, nightclubs and, in general, any premises used habitually or occasionally as a public entertainment venue or artistic performances or exhibitions.
- *Not included*: Artistic performances in a private setting and labor relations of technical support personnel to assist in the production of shows.

- In the case of **underage Artists:**
- Must obtain an authorization issued by the labor authority in order to work as artists.
- This authorization is exceptional and must be requested by the legal representatives of the child.
- The Labor Authority will issue the authorization whenever the child's participation will not be a danger to their physical health, professional and personal development.
- The child must give their consent in writing specifying the event or activity for which it is granted.

3. **In relation to the rights and duties of the artists**

- They have the same rights as workers in an employment relationship.

3.1 **Rights:**

- To work and have freedom of choice of profession or trade.
- Free association.
- Collective -Negotiation.
- Adoption of collective action.
- Strike.
- Meeting.
- Information, consultation and participation in the company
- Promotion and training in the workplace, including training directed to adapt to the changes made in the workplace, and the development of plans and training activities aimed at improving their greater employability
- To not be discriminated against directly or indirectly for employment, or once employed, on grounds of sex, marital status, age within the limits set by the law, racial or ethnic origin, social status, religion or belief, political ideas, sexual orientation, membership in a union or not, and because of language within the Spanish State.
- No person shall be discriminated against on grounds of disability, provided that they are able and fit to perform the work or job in question.
- A physical integrity and adequate health and safety policy.
- Respect for their privacy and due regard to their dignity, including protection from harassment on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation and against sexual harassment and harassment based on sex.

- A timely perception of the agreed upon or legally established remuneration.
- To individual exercise of the actions under their contract of employment.
- To any other specifically arising from the labor contract.
- The artists recruited for participation in public entertainment has the right to effective occupation, except in the case of penalties, to be excluded from the preparatory to the exercise of their artistic activity assays or other activities.

3.2 Duties

- The artist is required to perform the artistic activity for which he was hired, on the dates indicated, applying the specific diligence that their personal artistic skills contribute, and following the instructions of the Company in matters affecting the organization of the show .
- A pact of full dedication, which must be expressly stated in the contract, can not be unilaterally terminated by the artist during its term. The compensation for the same may be expressed or be subsumed in the retribution to be perceived by the artist. In the event of breach of this covenant by the artist, the employer shall be entitled to compensation for damages, the amount, unless expressed in provisions in the contract shall be determined by the competent court, assessing factors such as the duration provided for the covenant, the amount of compensation received by the artist and, in general, the injury caused by the breach of contract
- Fulfill the specific duties of his job, according to the rules of good faith and diligence.
- Observe all security measures and hygiene.
- Comply with the orders and instructions of the employer in the regular exercise of their management powers.
- Not incur in a conflict of interest.
- Contribute by improving productivity.
- Any others that may arise, if any, of the respective contracts.

4. Residence and work permits

Depending on the period of stay in Spain we can establish the following classification:

4.1 For a period not exceeding 5 days of continuous performance in less than 6 months.

4.2 For a period of one year.

4.3 For a period exceeding one year.

4.1 For a period not exceeding 5 days continuous action in less than 6 months.

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4.1.1 Type of permit:

Do not require a permit

4.1.2 Characteristics:

The artists who come to Spain to do specific performances that do not involve an ongoing activity, individually or collectively move throughout Spain for carrying out artistic activities directly to the public or intended for recording of any kind for broadcast in any media or premises used habitually or occasionally for public performances or performances of artistic nature.

Accredited with the presentation of the contract for the development of the artistic activities and a relationship of the authorizations or licenses that may be required for the development of the same and that indicates the current status of its emission and the requested certifications, are all the corresponding agencies.

4.2 For a period of one year.

4.2.1 Type of permit

Require a work permit.

Permission is called "*Temporary residence and gainful employment of limited duration*" for a maximum period of 12 months.

No relatives are allowed

4.2.2 Characteristics:

- Must be artists or groups of artists of *international renown* or
- Artists participating in an international art project.
- That the project involves a major cultural or social contribution
- Or be in the staff necessary to carry out its activities, and come to Spain to perform actions involving activities of relevant cultural or social contribution.

4.2.3 Artist Requirements

- That the artist is an alien who needs a visa and work permit under the Spanish immigration law.

- That comes to Spain to perform activities of cultural interest to be performed directly for the public or to be recorded for later broadcasting.
- That has an employment contract with a company that is located in Spain for a maximum period of 1 year
- That is not found in Spanish territory illegally.
- That has a clean criminal record in Spain and in previous countries of residence for existing offenses under Spanish legislation.
- That is not banned from entering Spain and not listed as objectionable in the territorial space of countries with which Spain has signed an agreement to that effect.
- Signed commitment to return to the country of origin upon termination of employment.
- Curriculum vitae
- Documentation demonstrating the artist's career
- Documentation demonstrating the employment relationship of the artist with the company for which he/she works.
- Valid passport.

4.2.4 Business Requirements

Employers, based in Spain, which require the incorporation into Spanish territory of non-EU foreign workers, to develop a working relationship as artists must meet the following requirements:

- Submit Copy of the Tax Identification Number
- Submit Certificate of solvency of taxes and social security obligations.
- Submit Copy of all required licenses for the development of the activity.
- In the event of participating in an international project and relevant cultural or social contribution, submit documentation proving it.
- Demonstrate financial material or personal means to meet the business plan and to meet their obligations under the contract against the worker.

4.2.5 Reply time

1 month

After an approving resolution is notified to the employer, the artist has a period of 1 month to apply for a visa at the corresponding Spanish Consulate or Embassy with the necessary documents and enter Spain within three months. Once inside Spanish territory, the artist must register with the Social Security and request residence card in the police station.

4.3 For a period exceeding one year.

4.3.1 *Type of permit*

Require a work permit.

Permission is called "*Temporary residence and gainful employment* " for a period exceeding 12 months.

No relatives are allowed

4.3.2 *Characteristics:*

- Must be artists or groups of artists of *international renown* or
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4.3.3 *Artist Requirements*

- That the artist is an alien who needs a visa and work permit under the Spanish immigration law.
- That comes to Spain to perform activities of cultural interest to be performed directly for the public or to be recorded for later broadcasting.
- That has an employment contract with a company that is located in Spain for a period longer than 1 year.
- That is not found in Spanish territory illegally.
- That has a clean criminal record in Spain and in previous countries of residence for existing offenses under Spanish legislation.
- That is not banned from entering Spain and not listed as objectionable in the territorial space of countries with which Spain has signed an agreement to that effect.
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- In the event of participating in an international project and relevant cultural or social contribution, submit documentation proving it.
- Demonstrate financial material or personal means to meet the business plan and to meet their obligations under the contract against the worker.
- Guarantee a continued activity to the employee.
- Documentation that can accredit the work of the company
- Pay the processing fees

4.3.5 *Reply time*

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5. **Legislation:**

- Spanish Constitution, December 29, 1978
- Organic-Law, of 11 January on the rights and freedoms of foreigners in Spain and their social integration.
- Royal Decree 557/2011 of 20 April, Regulation of the Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration, after its reform by Organic Law 2/2009
- Royal Legislative Decree 1/1995, of 24 March, approving the revised text of the Law on the Statute of Workers (Effective until January 1, 2015) .

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Marla Bojorge is the owner of Bojorge & Associates, an international corporate and immigration law firm located in Valencia (Spain). The firm specializes in finding the right legal solution for each client's unique circumstances.

Marla Vanessa Bojorge Zúñiga is listed at Who's who legal, LegalComprehensive and Finest Legal.

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