
Practical Guide for EU, EEA and Swiss Lawyers on Service and Establishment

SPAIN

SEPTEMBER 2018

This information is provided by our members Bars and Law Societies and seeks to reflect the rules applicable at national level at the time of the most recent update by the relevant Bar or Law Society. The CCBE cannot be held responsible for the accuracy or validity of the information provided, nor give a guarantee that the details are complete, accurate and up-to-date. All information is provided subject to modification, error or omission.

If an error is identified, please bring it to the attention of the CCBE which will correct it, where appropriate.

| Structure | Information received |
|---------------------------------|---|
| 1. Establishment | |
| 1.1. Registration with Host Bar | <p>Registration as an EU lawyer in the local Bar. It equally requires registration at the home State Bar. This right is conferred via Directive 98/5 and its transposition via Real Decreto 936/2001. It is a two phase procedure: inscription and full membership.</p> <p>The registration form has to include: name and surname, nationality, country of origin, competent authority in the country of origin, effective professional address in home and host state (Spain) and for those lawyers practising in a group in their home state, name and legal form of the group.</p> <p>In addition: passport or ID or other document that accredits an EU or EEA nationality; certificate of registration at the home Bar proving the conditions of article 2 of the RD (not older than 3 months) and including, if applicable, the disciplinary information. Other documents which may not exceed those requested to Spanish nationals.</p> <p>Each local bar sets its registration fees.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none">- Art.53.f and 63.b of the Estatuto General de la Abogacía Española |
| 1.2. Title | <p>Abogado (or home country title)</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none">- Art. 6 , 11, 13.1.c) of the Estatuto General de la Abogacía Española |
| 1.3. Salaried practice | <p>Yes. Articles 38 to 40 of the Estatuto General de la Abogacía Española: special or common labour relation</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none">- Art 44 of the Estatuto General de la Abogacía Española |

| | |
|---|---|
| 1.4. Legal Form and Shareholding | <p>Lawyers may practice collectively through any valid legal form admitted by law.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art.1.2 of the Ley 2/2007, de Sociedades Profesionales - Real Decreto 1331/2006, - Art 28.1 of the Estatuto General de la Abogacía Española |
| 1.5. Joint Practice | <p>When the grouping's professional object is the joint exercise of the "Abogacía", it will have to constitute itself as a "professional society" (Ley 2/2007 de 15 de marzo).</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 1.1 of the Ley 2/2007, de Sociedades Profesionales |
| 1.6. Areas of Activity | <p>The Legal Profession provides a service to society for the sake of public interest. This service is practiced in a framework of free and loyal competence, not only advising and defending public and private rights and interests, but also applying legal science and technique with effectiveness, seeking Justice and fundamental rights and liberties.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 1.1 of the Estatuto General de la Abogacía Española |
| 1.7. Practice Rules | <p>Constitución Española, Ley Orgánica del Poder Judicial, Estatuto General de la Abogacía Española, Código Deontológico.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 33.2, 42.3, 46.1 and 1.4 of the Estatuto General de la Abogacía Española - Art 1 of the Código Deontológico |
| 1.8. Principle of Double Deontology | <p>No. The hierarchy of norms is: 1°) applicable rules as established by the sectorial Directives 2°) In the fields that are not regulated by the Directives, applicable Spanish Laws (incl. Estatuto General). 3°) home country deontology.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 9.3 of the Consitución española · - Art 93 and 96 of the Constitución española - Art 1.2 of the Código Civil |
| 1.9. Disciplinary proceedings | <p>Where applicable, the competence belongs to the local Bar in first instance.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art1.2 of the Real Decreto 658/2001, de 22 de junio - Art 3.1 of the Estatuto General de la Abogacía Española |
| 1.10. Insurance (professional indemnity insurance, social security, etc.) | <ul style="list-style-type: none"> • Professional Indemnity Insurance: Depending of the local Bar • Social security: Two optional systems: private and public <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art. 11.3 of the Ley 2/2007 de Sociedades profesionales |

| | |
|--|--|
| 1.11. Fees | <p>Fees are freely established.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art. 44.1 of the Estatuto General de la Abogacía Española |
| 1.12. Continuing Legal Education | <p>Not applicable.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 3,4,5,6 of the Ley 34/2006 sobre el acceso a las profesiones de Abogado y Procurador de los Tribunales. |
| 1.13. Bar | <p>Local bar in which he establishes his main or only professional address</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 17 of the Estatuto General de la Abogacía Española |
| 1.14. Conditions for the Acquisition of the Title of a 'National Lawyer' | <p>a) 3 years of practice (Article 10 of Establishment directive)</p> <p>b) via Professional Qualifications: 1°) State exam and possibly an internship. 2°) Invoke Resolution of 4 of June 2009 (aptitude tests for EU citizens) and request the recognition of professional title. The Ministry may require, on a case by case basis, a period of practice of a maximum of three years. The Resolution establishes all the formalities. This recognition (through a certificate of the Ministry) allows the person to practice the profession of abogado after duly registering at the local Bar in which he establishes his main or only professional address. This regime is different to the homologation of the Law Degree (without reaching the requirements in the home State).</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Resolution of 4 of June 2009 - Real Decreto 967/2014 - Ley 5/2012 de mediación en asuntos civiles y mercantiles. - Ley 34/2006 sobre el acceso a las profesiones de Abogado y Procurador de los Tribunales. |
| 2. Services | |
| 2.1. Under home title & representation before courts | <p>Service under your home title – before courts and administrative authorities</p> <p>It is reserved to professionals that are already registered or inscribed in another competent authority for advise and representation.</p> <p>It is regulated by Real Decreto 607/1986</p> <p>It requires previous communication to the local Bar of the territory where he plans to deliver services.</p> <p>They will have to provide: name and surname; professional title in home country; address in Spain; if applicable, name of the Abogado and professional address with whom he will be cooperating; statement guaranteeing that you have no incompatibility and no disciplinary sanction.</p> <p>The Bar will have to inform the CGAE and to the Court or President of the Court in which the lawyer wishes to act.</p> <p>In order to act in Courts, Tribunals, public bodies, to assist arrested or detainees, the visiting lawyer has to act in conjunction with a registered lawyer. This is a measure to protect the client preventing the lack of knowledge of Spanish law and procedure. It requires a real accompanying activity with physical presence that allows to assist at any given moment the visiting lawyer. The</p> |

| | |
|--|---|
| | <p>agreement has to be written and communicated to the Bar, including the professional actions that will be covered and it implies civil and deontological liability for the <i>Abogado</i>.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 5 of the Real Decreto 607/1986 - Art 17 of the Estatuto General de la Abogacía Española |
| 2.2. Deontology | <p>Subject to the regime of the Spanish Lawyers without prejudice of the home rules applicable.</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 16 of the Estatuto General de la Abogacía Española - Código deontológico - Estatuto General de la Abogacía Española in general |
| 2.3. Fees | N/A |
| 3. Acquisition of the national lawyer's title | |
| 3.1. Via Establishment Directive | See above point 1.14 |
| 3.2. Via Professional Qualification Directive | <p>Pass the aptitude test (or having a period of adaptation up to 3 years): see Articles 13-14 of Directive 2005/36 on recognition of professional qualifications</p> <p>See above point 1.14</p> <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Orden PCI/949/2018 section 11 annex 2 - http://www.mjusticia.gob.es/cs/Satellite/es/1200666550200/Tramite_C/1288776144635/Detalle.html - https://www.abogacia.es/2016/03/30/ejercicio-de-la-abogacia-en-espana-por-graduados-o-abogados-extranjeros/ |
| 4. Practicalities | |
| 4.1. Practical information | <p>You can find information on the court system, addresses, contacts and opening hours of all courts under: http://www.mjusticia.gob.es/BUSCADIR/ServletControlador?apartado=buscadorGeneral</p> <p>Contacts to and information on the organization of the Spanish Bar are available under: http://www.abogacia.es/abogacia_servicio/ventanilla-unica/</p> <p>Contacts to the <i>Consejo General de la Abogacía Española</i>.</p> <p>www.abogacia.es Internacional.sjj@abogacia.es (Madrid) / bruselas@abogacia.es (Brussels)</p> <p><i>Relevant national provision:</i></p> |

| | |
|---|--|
| | <ul style="list-style-type: none"> - https://www.abogacia.es/2016/03/30/ejercicio-de-la-abogacia-en-espana-por-graduados-o-abogados-extranjeros/ - http://www.mjusticia.gob.es/cs/Satellite/es/1200666550200/Tramite_C/1288776144635/Detalle.html |
| 4.2. National organisation | <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - Art 47 to 61 of the Estatuto General de la Abogacía Española - https://www.abogacia.es/conozcanos/la-institucion/colegios-y-consejos/ - https://www.abogacia.es/conozcanos/la-institucion/organigrama/ |
| 4.3. Reference to national legislation with other languages available + links | <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - https://boe.es/legislacion/legislacion.php - Administración gobierno |
| 4.4. Reference to existing national guides | <p><i>Relevant national provision:</i></p> <ul style="list-style-type: none"> - https://www.abogacia.es/2016/03/30/ejercicio-de-la-abogacia-en-espana-por-graduados-o-abogados-extranjeros/ |
| 4.5. Reference to services available for lawyers in that jurisdiction | N/A |
| 4.6. Contact information | N/A |