

# Colombia

## Executive Summary

Colombian immigration legislation provides different solutions to help employers of foreign nationals and to assist foreign citizens entering the country for business purposes. Depending on the activities to be executed in the country, foreign citizens can obtain temporary permits or visas. Requirements, the need to validate professional degrees or obtain temporary licenses and the possibility of earning salaries or fees in the country vary by visa classification.

## Key Government Agencies

The Ministry of Foreign Affairs located in Bogota, D.C. and the Colombian Consulates abroad are responsible for visa processing. The issuance of employment visas for the first time must be performed abroad before a Colombian Consulate - unless (i) the foreign citizen holds a Colombian business visa or (ii) the Ministry of Foreign Affairs - In certain cases involving restricted nationalities, the consulates require prior authorization from the Ministry of Foreign Affairs.

The Ministry of Social Protection is in charge of certifying compliance of the ratio between national and foreign employees, which is a requirement to obtain an employment visa or a visa to work in Colombia.

The Administrative Department of Security (“DAS”) is in charge of the issuance of temporary permits and foreign IDs, and performs the investigations and enforcement actions involving local employers, sponsoring entities, and foreign nationals. The Professional Councils are also part of the visa process in case foreign citizens plan to execute activities involving their professional experience in the country. The determination of whether a foreign national executes activities that

involve his professional experience is a prerogative of the professional councils.

## Current Trends

Colombian Consulates are extremely discretionary and in occasions are inclined to go beyond the law and ask for additional documentation or requirements. Between July and November 2009 the government amended some topics of the immigration legislation and the fees of some kinds of visas. These changes were made enforceable by the government since December, 2009 in order to improve some specific provisions of immigration law to make them more suitable with the current needs of the country, commercial strategies, and business opportunities.

## Business Travel

### *Business Visa*

As a general rule, foreigners who visit the country on short-term visits without receiving any fees or compensation in Colombia may request a business visa. The business visa applies to the foreigner that exercises the legal representation, or occupies a directive or executive position in a foreign company. This company must have economical connections with a national or foreign company established within Colombia. The foreigner that acquires this kind of visa may develop activities of business promotion related with the interests of the company, such as the assistance to boards of partners or directors, and the supervision of the operations of economically, strategically and legally related companies. This kind of visa is acknowledged for a term of until four years for multiple entries and authorizes a stay of up to one (1) year per each entry. The foreigner entering Colombia under a business visa cannot settle in Colombia or receive fees or compensation in Colombia.

Foreigners who come to work on issues connected to any kind of free trade agreement involving Colombia may also enter by means of a business visa. Exceptionally for foreigners that intend to enter to Colombia in the frame of a negotiation of a free trade agreement, this visa may be granted for up to four (4) years for multiple entries and authorizes a stay of up to two (2) years per each entry. Under this scenario, foreign citizens are allowed to receive fees or compensations in Colombia as payment for their work as negotiators of the agreement - this option was included recently by the government by the Decree 2622 of 2009-

As from July 2009, foreigners are able to apply for a general business visa for the first time within Colombian territory.

Family members of the person entitled to a business visa are now allowed to obtain a temporary beneficiary visa. Normal government fees are waived for nationals of Spain, South Korea, Japan, United States and Ecuador.

#### *Visa Waiver*

The normal visitor visa requirement is waived and citizens of certain countries may be issued a temporary visitor permit by DAS at the time of entry to engage in one of the following activities, provided that the foreigner does not have a labor relationship with the Colombian sponsor and will not receive any kind of remuneration in Colombia (compensation or fees):

- Academic activities in seminars, conferences or expositions.
- Courses or studies for less than six months.
- Medical treatment.
- Interviews within recruitment processes.

- Commercial contacts or visits of less than one week.
- Provide training for a term of 180 business days.

### *Temporary Technical Permit*

A temporary technical permit may be granted by the DAS to foreigners seeking to develop urgent technical services for a maximum term of 45 calendar days renewable if the emergency continuous for up to 180 calendar days per each calendar year. This kind of permit is commonly granted to technicians or engineers to inspect, test, or install equipment, or perform any duties related to their technical expertise. The temporary technical permit must be requested by the local sponsoring company, for which purpose it must submit the required documents to DAS, at least three business days in advance.

Visa waiver benefits are available to citizens of: Alemania, Andorra, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Bhutan, Bolivia, Brazil, Brunei-Darussalam, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Federal State of Micronesia, Fiji, Finland, France, Germany, Granada, Greece, Guatemala, Guyana, Holy See, Honduras, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Latvia, Liechtenstein, Lithuania, Luxemburg, Korea, Malaysia, Malta, Marshal Islands, Mexico, Monaco, Netherlands, New Zealand, Norway, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Saint Kitts and Nevis, Saint Vincent and Grenadines, Saint Marino, Saint Lucia, Salomon Islands, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, Trinidad and Tobago, Turkey, United Kingdom, United States, Uruguay, and Venezuela.

## Employment Assignments

### *Employment Visa*

Under Colombian immigration laws, any foreigner that intends to undertake work activities in the country must request an employment visa or a visa under a different category that allow him/her to work (e.g. spouse of Colombian national or parent of Colombian national). The employment visa allows foreigners to stay and work in Colombia usually for a one or two years period or for a lower period, depending on the information given to immigration authorities. The employment visa is usually granted to foreigners in the presence of the following events:

- Engagements by private or public entity, foreign or national, to perform a job or an activity in the foreigner's profession or specialty or to execute technical activities.
- Executives, directive personnel, technicians or administrative personnel of private or public foreign entities, transferred from abroad, to cover specific positions in their companies, Colombian branches or subsidiaries.
- An employee of a Colombian entity to work on specific projects requested by Colombian companies.
- Foreigners transferred to Colombia from abroad in order to render independent services to companies domiciled within the country without having a labor relationship with said local companies.
- Paid services carried out by academics required by higher education institutes, foreigners appointed by an entity of the Colombian Government, artists or sports people, journalists who are foreign correspondents.

Employment visas are issued for a maximum term of two years and allow multiple entrances. They expire automatically if the foreigner is absent from the country for a period that exceeds 180 continuous days and may be renewed for a period of two years or less according with the term of the labor contract and the evaluation of the submitted documents.

This proceeding must take place previous to the date the foreigner begins to render his/her services in favor of the local company.

The spouse or permanent companion, parents and children of the person obtaining a work visa may obtain a temporary beneficiary visa, which allows them to enter Colombia to study or engage in home activities but does not entitle them to work.

The foreigner will only be allowed to perform the activity authorized in the employment visa. In the event there is any change of activity or position, the foreigner and the sponsoring company must inform in writing to immigration authorities notifying the change and, if such is the case, request the change of the visa.

### *Obligations of Register and Control*

Any foreign national who obtains a visa for more than three months of validity should appear before the Foreigners Department of DAS in order to be registered on the immigration files and to obtain a foreign identity card (“cédula de extranjería”). When immigration authorities issue or renew any visa, the foreigner and the family<sup>2</sup> must appear before DAS within 15 calendar days of the day of entry or visa issuance (*e.g.*, in the case of renewals) to register and obtain the foreign identity card. Employers (entities, institutions or individuals)

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<sup>2</sup> Children above seven (7) years old.

must inform the DAS of the hiring and termination of foreigners within 15 calendar days of hiring or termination.

This also applies to renewed or changed visas. In such case, employers must inform in writing to DAS the continuity of the labor relationship. Foreign citizen must notify the DAS and the Ministry of Foreign Affairs about any change of residence or domicile within 15 days of the change.

### Other Comments

The issuance or renewal of visas is a discretionary decision. Furthermore, the authorities have the power to deny those petitions without the opportunity to appeal the decision. Prior to application, the best practice is to informally visit the immigration authorities in order to review with them the respective documents.

It is important to minimize the risk of denial, since a new petition may be presented only after a six-month wait if a visa request is denied.

Renewals of any visas may be obtained before the Ministry of Foreign Affairs in Bogotá D.C. or before the respective Colombian Consulate abroad, provided that visas are not to be expired. The requirements to obtain visas change periodically and should be verified. The process to obtain the visa before the Colombian Consulate abroad normally takes three to five business days. And the process to renew the visa before the Ministry of Foreign Affairs normally will conclude in the same day. Foreigners that stay or visit Colombia can only practice the profession or the activity authorized by the respective visa. In the event the foreigner changes activity, there is a requirement to submit a petition to have a new visa with the change of activity to the Ministry of Foreign Affairs in Bogotá, D.C.

Non-compliance of immigration regulations will be sanctioned with the impositions of fines and, in some cases, with the deportation or the expulsion of the foreigner.