

Legal 500

Country Comparative Guides 2024

Colombia

Corporate Immigration

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This country-specific Q&A provides an overview of corporate immigration laws and regulations applicable in Colombia.

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Colombia: Corporate Immigration

1. What are the relevant government entities relating to immigration in your jurisdiction?

There are three (3) relevant government entities related to immigration matters in Colombia. Firstly, we have the Ministry of Foreign Affairs, which is the governing authority in immigration matters and is in charge of the Colombian immigration policy, including, among others, defining the conditions and requirements for visa granting, as well as the nationalities exempted from visas.

Secondly, we have *Migración Colombia*, which is a Special Administrative Unit attached to the Ministry of Foreign Affairs and is in charge of immigration control and surveillance in Colombian territory. This authority is in charge of visa registrations and the issuance of foreign identification cards. This entity also has sanctioning powers.

Finally, the Ministry of Labor, which is in charge of labor migration policy and has specifically created a registry of foreign workers to keep track of labor migration in Colombia.

2. What are the options available for sponsor-based employment in your jurisdiction and timelines involved in securing a work permit?

The primary visa options for sponsor-based employment in Colombia are the following:

- **Technical Assistance Visitor visa:** To provide technical assistance to an entity/company in Colombia.
- **FTA Entrepreneurs Visitor visa:** For the mobility of entrepreneurs or businesspeople, within the framework of Free Trade Agreements (FTA) signed and in force with other States.
- **Services Provider Visitor Visa:** To provide services or perform a particular job temporarily for a company in Colombia, under a local contract.
- **Migrant Worker Visa:** For foreigners aspiring to work in Colombia with a Colombian entity/company through an employment contract.

Regarding the timelines involved, all visa applications in front of the Ministry of Foreign Affairs in Colombia have identical processing times. When a visa application is electronically submitted, the visas and immigration authority will have five thirty (30) days to send a final decision on the visa application. However, if the authority requires consultations with other entities, the response time may exceed this period and it will depend solely on the Ministry's discretion.

If the visa is granted for more than three (3) months (depending on the activity), the visa holder may request a Foreign Identification Card in front of *Migración Colombia*, within the next fifteen days after the visa is granted.

3. What are the primary options available for unsponsored work and investment in your jurisdiction?

The primary options for unsponsored work and investment in Colombia are the following:

- **Digital Nomad Visitor visa:** To provide services for a foreign company from Colombia, through remote work, as an independent contractor or employee, or to start a start-up in Colombia within the fields of digital content or information technology aligned with the country's interest or needs.
- **Migrant Mercosur Visa:** For nationals of the State party of the Mercosur agreement. This visa allows its holder to perform any lawful activity within the national territory.
- **Migrant Andean (CAN) Visa:** For nationals from a State party of the Andean Migration Statute. This visa allows its holder to perform any lawful activity within the national territory.
- **Migrant Shareholder visa:** For foreigners who have incorporated a company or acquired shares of a company in Colombia, exceeding the minimum quantities defined by the local regulation.
- **Migrant Investor Visa:** For foreigners who have made a direct foreign investment or have acquired real estate.
- **Permanent Resident Visa:** for foreigners holding a Migrant Visa and meeting the

temporal requirement to apply for a Permanent Resident Visa (from 2 to 5 years depending on the visa category).

4. What are the requirements for becoming a sponsor of employment-based migrants and what are the role and reporting duties of sponsors?

The requirements for becoming a sponsor of employment-based migrants are the following:

- To be legally incorporated in Colombia.
- To have sufficient financial capacity under the minimum revenue defined by local regulation.
- To provide supporting corporate documents, such as supporting letters, certificates of incorporation, work certificates, etc.
- For visitor visas, the sponsor company shall be responsible for the travel and stay expenses of the foreigner in Colombia.

Sponsors must comply with all labor and social security obligations under local regulations, and also must comply with reporting duties such as registration and de-registration of all foreign employees/contractors in the relevant immigration and labor platforms (SIRE and RUTEC), as applicable.

In addition, sponsors are required to bear the repatriation expenses of the employee and their family (if applicable) to the country of origin, or the last country of residence, after the relationship with the employee ends.

5. Are applications filed electronically, or paper base? Is a physical visa/work permit document issued or is an electronic approval issued?

All visa applications must be submitted electronically through the Ministry of Foreign Affairs' online platform and, after approval, these are issued electronically. One of the significant changes implemented during the COVID-19 pandemic is that no visa stamping is anymore required.

Please note that some exceptions may apply depending on the Consulate in front of which the visa application is submitted (e.g. Some Colombian Consulates abroad require the visa applicant to appear in person to provide original documents or for an interview or to stamp the visa in the passport).

6. Is an in-person attendance/interview required as part of the visa/work permit application process? Is an individual required to enrol their biometrics (digital photo, fingerprint scan) as part of the visa/work permit process?

In principle, there is no in-person attendance required during the visa application process. However, some exceptions may apply depending on the authority's discretion.

Regarding biometric data of the visa applicant, only a digital photo is required beforehand and must be uploaded to the online visa application form. After the visa is approved, if the visa is valid for three (3) months or more, a Foreign ID card must be requested, and other biometric data, such as a new photo and fingerprints will be captured as a part of this process.

7. What persons qualify as dependants? Can dependants work based on their dependant visa status? Are there any restrictions?

Under local regulation, the persons who qualify as dependents of the primary visa holder are their spouse or de-facto partner, children under 25 years of age, and children over 25 years of age with disabilities. They all must depend economically on the primary visa holder, and their dependant visa does not allow them to work or perform any paid activity.

Additionally, a dependant visa application can be only submitted after the visa of the primary applicant is issued.

8. What is the general time frame and processes for obtaining permanent residence and citizenship for sponsored and unsponsored business-related immigration?

The timeframe for obtaining permanent residence in Colombia will depend on the category of visa the foreigner holds. Thus, if the foreigner holds an unsponsored visa (e.g. under Mercosur or Andean agreement) they must live regularly in Colombia for at least two (2) continuous and uninterrupted years. If the foreigner holds a sponsored visa (e.g. Migrant Worker Visa), he must live regularly in Colombia for at least five (5) continuous and uninterrupted years to be allowed to apply for permanent residence.

Regarding the process of obtaining permanent residence,

it is through the same process as any other visa application and has the same processing time of 30 days (extendable if the authority requires consultations with other entities).

To become applicable for citizenship, foreigners must be established in Colombian territory with a permanent residence and the time will depend on their nationality or the condition met by them. Thus, nationals from Latin American and Caribbean countries must be holders of a permanent residence visa and be established in Colombia for one (1) year; two (2) years for Spanish nationals and other foreigners married/de facto with Colombian; and five (5) years for any other foreigners. It is important to highlight that applicants cannot be outside Colombian territory for more than three (3) months to meet this condition.

The process to obtain citizenship starts with an online application for Colombian nationality (by adoption) in front of the Ministry of Foreign Affairs. The processing time will depend on the Ministry's discretion and the completion of each stage.

9. What productive type activities can a business visitor undertake and for how long?

Business visitors can conduct business negotiations, market research, direct investment plans or procedures and incorporation of commercial companies, negotiation, and termination of contracts or commercial representation for a maximum period of one hundred and eighty (180) days within three hundred and sixty-five (365) days period.

Depending on their nationality, business visitors may enter Colombia without a visa for an initial period of ninety (90) days, renewable for an additional ninety (90) days.

10. Can remote work be carried out from your country?

Yes. However, any remote work that implies a stay within Colombian territory must be performed with a regular immigration status through the relevant permit. The following visa categories can lead its holder to work remotely from Colombia for a company abroad:

- Digital Nomad Visitor visa.
- Migrant Mercosur Visa.
- Migrant Andean (CAN) Visa.

11. Are there any productive work / revenue generating activities that can be carried out as a visitor and without the need for a work permit? If so, what activities and for how long?

No, all foreign citizens willing to perform productive work or revenue-generating activities in Colombia must obtain a work permit as no Entry and Stay Permit (passport stamp) allows its holder to perform this kind of activities. Furthermore, Visitor migration status in Colombia can be obtained with a Visitor Visa, and some Visitor Visa categories include work permits and allow its holder to perform productive work or revenue-generating activities in the country.

12. Is there a remote work or nomad visa category in your jurisdiction? If not, how likely is it that this will be implemented in future?

Yes, a Digital Nomad Visitor Visa is implemented by the most recent migration regulation (Resolution 5477/2022) for foreigners willing to work remotely as an independent contractor or employee and provide services for a foreign company from Colombia, or to start a start-up in Colombia within the fields of digital content or information technology aligned with the country's interest or needs.

This visa category is one of the most recent implementations in the migration regulations in Colombia following the trend in other countries of the region and the world.

13. How easy is it to switch visa categories/jobs/employer from within country? And/or if made redundant, can the individual regularise their stay in another capacity and what is the timeframe allowable?

In Colombia, it is possible to switch visa categories, jobs, and employers from within the country. However, local regulations in Colombia do not include a process for visa renewal. Thus, any visa application will be processed as a first-time visa application, regardless of the type of visa.

The only exception to this rule is applicable for Visitor Visa holders who are only allowed to apply for visas of the same type (Visitor Visas) in-country. However, they can change the visa type by applying in front of a Colombian Consulate abroad.

Furthermore, a foreigner can also regularize their stay in

another capacity during their stay in Colombia. For example, a foreigner can enter Colombia as a tourist, and then, during the ninety (90) to one hundred and eighty (180) days of permitted stay, they can apply for any type of visa. Please note that some exceptions can apply depending on if the foreigner has a visa-waived nationality or not.

14. What common issues or concerns may arise for employers under business immigration in your jurisdiction?

The most common issues that employers may face under business immigration in Colombia would be related to the high discretion of the visa authorities within these processes. For instance, the authority is entitled to request additional/different documents for every visa application on a case-by-case basis. In addition, the local regulation sets that the visa application processing time can be exceeded with no limit if the authority requires consultations with other entities.

In addition, the validity period defined by immigration regulations for each type of visa will also depend on the Ministry's discretion. This means that all visas can be issued with a shorter validity period than the one defined by the relevant regulation.

15. Is there a fast track process / certification that business can obtain to expedite visa / permit processing?

No, there is not a fast track process or certification that businesses can obtain in Colombia to expedite visa processing.

16. What are the recent trends, both political and social that have impacted your jurisdiction with regard to immigration policy and law?

The Colombian government has recently issued a new Resolution on visas which will be in force as of October 19, 2022. This new regulation derogates all the previous regulations in place for this matter and would include significant changes, such as new categories of visas, conditions, scope, requirements, and procedures.

Although the COVID-19 pandemic is being overcome, this generated some delays in all the immigration procedures in Colombia, because of the restrictions implemented by the local government, and its effects are still being experienced in these procedures.

Furthermore, for the past years, Colombia is facing one of the biggest human mobility phenomena in history, which is Venezuelan immigration. In this respect, Colombia has been a supportive country and the government has implemented a very flexible migration policy for Venezuelans. For instance, the Colombian government issued a regulation that provides Venezuelan passports with ten (10) additional years of validity after their expiration date. This, along with the special permits that have been created for Venezuelans since 2017, demonstrates the intentions of the Colombian government to manage the Venezuelan migration phenomenon properly.

17. Are there any new and / or anticipated changes impacting immigration law and / or policy in your jurisdiction?

The government recently issued Resolution 5477/2022, which created new visa categories and implemented some changes in the processing of Colombian visa applications.

On the other hand, the Colombian government has also recently issued a new regulation on visa-waived nationalities (Resolution 5488/2022), which includes new nationalities to the visa-waived nationalities list, implements new provisions on this matter, and revokes the previous resolution in force.

18. How do you see technology developing and evolving to support immigration process in the future?

There have been some improvements in immigration procedures in Colombia with the implementation of new technologies. For instance, the application of biometric verification through the eye's iris at El Dorado airport's immigration control points.

Furthermore, the latest improvements in biometrics data collection for Venezuelan migrants living in Colombia, through the Temporary Protection Permit, will make easier the process to identify them and provide them with access to the labor market and financial services.

Additionally, most of the immigration procedures in Colombia are being performed electronically and in-person procedures have been reduced.

In summary, we believe that the future developments of technology to support immigration processes would involve the eradication of in-person procedures as well as

speeding up and improving processes through the implementation of new biometric data collection technologies.

19. What are the Right to Work requirements in your jurisdiction?

The Right-to-Work requirements for foreigners in Colombia would be basically to hold one of the following documents/permits:

- Valid Visa that allows its holder to work and a Foreign Identification Card.
- Temporary Protection Permit (PPT) for Venezuelan nationals.

20. What are the types of civil and criminal penalties employers may face for non-compliance with immigration rules i.e. employing an individual who does not have the Right to Work?

In Colombia, there are no criminal penalties that employers may face for non-compliance with immigration regulations. However, employers may face an economic penalty between four (4) to one hundred (100) minimum legal wages (calculated in Tax Unit Value) if they incur one of the following situations:

- Repeatedly refusing to appear in front of the immigration authority, despite having been requested to do so in writing.
- Simulates some type of contract to facilitate the obtaining of a visa by a foreigner.
- Not facilitating the review of documentation related to the hiring of foreign personnel.
- Hires or employs a foreigner to perform any activity without complying with immigration requirements.
- Promotes irregular entry or exit of foreigners or nationals to Colombian territory.
- Refuses to bear the repatriation expenses of the employee and their family after the relationship with the employee is terminated.
- Fails to comply with the other obligations contained in immigration regulations.

21. Are there labour market testing requirements in your jurisdiction and if so, what do they involve?

No, there are no labor market testing requirements in

Colombia.

However, it should be noted that when applying for certain visa categories, especially sponsored and employment-based visas, the applicant's suitability for the specific position in Colombia must be justified.

22. Are there quota requirements, restrictions or a cap on the numbers of foreign nationals hired per company in your jurisdiction?

No, there are no quota requirements or restrictions for Colombian companies to hire foreign workers since 2010. Before 2010, there was a quota set by labor law, but it was revoked.

However, there is a specific quota still in place for projects where the exercise of engineers and related workers is needed, where the participation of foreign professionals may not exceed twenty percent (20%) of their staff.

Moreover, the most recent regulation on visas issued by the Colombian Government (Law 2069/2020), includes the possibility for specific public entities to set quotas for agricultural workers to apply for the Agricultural Worker Visitor Visa. These quotas may be placed on a case-by-case basis.

23. Are there any exit procedures in your jurisdiction, if an individual is departing permanently?

Yes, there are some domestic exit requirements to be met by employers and employees before departure.

For employers, they must comply with a de-registration report within the 15 calendar days of the termination date through the immigration platform and a de-registration report within the 30 calendar days of the termination date through the labor platform.

In addition, the employer shall bear the repatriation expenses of the employee and their family (if applicable) to the country of origin or the last country of residence within the next 30 days after the termination date.

For the employee, they must be in a regular immigration status at the time of departure to avoid any issues with the immigration authority. Under local regulation, an employee's visa will expire on the termination date reported by the employer. Thus, the employee will have 30 business days of "automatic regular permanence" to

apply and obtain a new visa or to leave the country.

24. Are there any requirements for medical certificates or vaccinations for your jurisdiction?

Yes, the latest regulation on this matter from the Colombian Ministry of Health states that international travellers entering Colombia must present proof of completion of a COVID-19 vaccination scheme or either a negative antigen test taken within 48 hours before the originally scheduled time of embarkment or a PCR test taken within 72 hours before the originally scheduled time of embarkment.

25. Are there any language requirements for your jurisdiction?

No, there are no language requirements for visa applicants in Colombia. However, all documents submitted to the authority in visa applications must be officially translated into Spanish if they are in another language.

26. What are the government costs associated with a typical employment based visa?

The government fees associated with visa applications in Colombia will vary depending on the visa category the foreign is applying to. However, for a typical employment-based visa, these fees will be the following:

- Visa study: USD 52
- Visa issuance: USD 230

Please also note that some changes may apply depending on the applicant's nationality and the location where the visa application is submitted.

27. Is a local contract of employment required in order to obtain a work based visa or work permit? Are there salary or other thresholds to be met?

Yes, to obtain an employment-based visa, a contract of employment with a local company as a sponsor is required.

Sponsors must comply with all labor and social security obligations under local regulations, including minimum

legal wage and equal conditions as national workers.

28. What are the maximum periods of stay for individuals on an employment based visa / work permit?

The holder of an employment-based visa can stay in Colombia for a maximum period of three (3) years and can submit a new visa application for the same visa unlimited times.

The validity of the visa would depend on the type of employment contract the foreigner has (e.g. fixed-term contracts) and at the Ministry's discretion.

29. Does your jurisdiction allow dual nationality?

Yes, in Colombia, local regulations allow Colombian nationals to have other nationalities, and there is no reference to any limitation in quantity.

The 1991 Colombian Political Constitution introduced the principle of dual nationality, establishing that a Colombian does not lose his Colombian nationality when acquiring another nationality. Additionally, nationals by naturalization are not forced to renounce their origin nationality when obtaining Colombian nationality.

30. What are the most positive aspects of your immigration system compared to the rest of the world?

In our opinion, the most positive aspects of the Colombian immigration system can be summarized as the following:

- Our system has relatively faster procedures in comparison with other Latin American countries.
- Visa applications are generally 100% online. It facilitates the possibility to submit visa applications in front of Colombian Consulates around the world.
- No labor market testing is required, like in other countries of the region and the world.
- Colombian companies do not have restrictions on the number of foreign workers that can be hired (no quota on foreign workers).
- The Colombian immigration system, in general, has significantly improved after the Venezuelan Migration phenomenon arrived.

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