



Corporate Immigration

in 25 jurisdictions worldwide

2012

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Argentina

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Overview

- 1 In broad terms what is your government's policy towards business immigration?

Argentina has always welcomed immigrants. In this respect, the latest governmental policy developments are framed towards establishing a more open immigration regime. A residence agreement was signed by Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay allowing citizens from the Southern Common Market (Mercosur) and Bolivian and Chilean nationals to live and work without limitations in other countries of Mercosur, Bolivia and Chile as long as the applicants comply with a minimum of legal requirements. These immigration benefits were later extended to citizens from Colombia, Ecuador, Peru and Venezuela.

Argentina has also adopted new immigration regulations to streamline temporary residency processing for nationals of non-Mercosur countries who have been offered employment by local companies.

Short-term transfers

- 2 In what circumstances is a visa necessary for short-term travellers? How are short-term visas obtained?

In principle, a transitory residence is necessary to perform any of the following assignments in Argentina:

- business trip;
- technical or professional work, compensated or not, for a 30-day maximum stay;
- crew members of international ships or flights arriving to Argentina;
- seasonal migrant workers; and
- foreign correspondents, among others.

The application for a transitory residence may be filed by the applicant either at the Argentine consulate nearest to his or her place of residence or at the Immigration Department while staying in Argentina. It is a standard and expedited procedure that involves an appointment with either the consular officers or the immigration authorities for the submission of all required documents.

- 3 What are the main restrictions on a business visitor?

The key concern is given by the scope of activities that a 'business trip' comprises, as it is not specifically defined by the Argentine Immigration Law. However, allowed activities of business visitors are usually limited to the following: attending business meetings and seminars, conducting business negotiations, making preliminary contacts that may lead to the incorporation of a company in Argentina, entering into contracts with Argentine businesses, and even giving depositions in commercial litigation cases. On the contrary, business

visitors must not intend to manufacture goods or provide any service in Argentina.

- 4 Is immigration permission needed to give or receive short-term training?

Pursuant to Argentine immigration law, foreign nationals are required to obtain a short-term residence in order to give or receive short-term training in Argentina. These visas can be obtained at the Argentine consulate nearest to the applicant's place of residence.

- 5 Are transit visas required to travel through your country? How are these obtained?

Foreign nationals are required to obtain a short-term residence for tourist purposes, except for those entering the country under a visa waiver programme. Tourist visas can be obtained at the Argentine consulate nearest to the applicant's place of residence. These visas are generally valid for up to 90 days, allowing multiple entries.

Long-term transfers

- 6 What are the main immigration permission categories used by companies to transfer skilled staff?

According to our experience, foreign companies needing to transfer skilled staff to Argentina do it through either a temporary work visa or an intra-company transfer residence.

- 7 What are the procedures for obtaining these permissions?

Nationals of Mercosur full member states (Brazil, Paraguay and Uruguay) and its six associate member states (Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela) are not required to obtain temporary working residence visas. As stated above, they can obtain a two-year temporary residence based on their nationality without the need for a sponsoring company.

On the contrary, any national of a non-Mercosur country who applies for a temporary work residence visa needs to be sponsored by a local entity (eg, a branch, an affiliate or a subsidiary of a company). Furthermore, the applicant and the local entity must enter into an employment agreement governed by Argentine labour law.

Intra-company transfers from abroad of nationals of non-Mercosur countries involve the same application process as that used when local companies apply for temporary working visas in order to hire new foreign workers from abroad, except for the fact that this category of visa does not require an employment agreement governed by Argentine labour law. Instead, applicants must submit to the Argentine embassy or consulate a letter from their employer confirming that they are currently employees of the foreign company (with a pre-existing employment agreement) and that they will be

transferred to a branch, affiliate, subsidiary or other related company duly established in Argentina. Notwithstanding the above, Argentine labour law requires the local company to pay a portion of the foreign employee's total compensation and to comply with all applicable tax liabilities in Argentina.

8 What are the general maximum and minimum periods of stay granted under the main categories for company transfers?

Both a temporary work residence and an intra-company transfer residence for nationals of non-Mercosur countries will be granted for a maximum term of one year that may be renewed for additional terms. However, upon the third renewal, the applicant would be required to apply for permanent residency.

9 How long does it typically take to process the main categories?

The whole process for a visa approval is usually completed in about three months. In the meantime, an interim permit will be granted by the immigration authorities in favour of the applicant for the term of three months, which is renewable. This permit authorises the applicant to work in Argentina, as well as to leave and re-enter the country while the visa approval is pending.

10 Is it necessary to obtain any benefits or facilities for staff to secure a work permit?

Under Argentine law, there is no specific requirement of obtaining any benefits or facilities for staff in order to secure a work permit. However, once the foreign national is legally authorised to work in Argentina, he or she must submit a certificate of early registration issued by the Argentine Tax Authority and signed by the local employer before the Argentine Immigration Department.

11 Do the immigration authorities follow objective criteria, or do they exercise discretion according to subjective criteria?

In our experience, Argentine immigration authorities follow objective criteria when reviewing a visa application. Nonetheless, in some cases, the immigration officers may exercise certain discretion. For example, when foreign nationals apply on the grounds of special reasons not provided for in existing laws and regulations, such petitions are considered and resolved jointly by authorities of the Ministries of Interior and Foreign Affairs.

12 Is there a special route for high net worth individuals or investors?

High net worth individuals or investors may apply for an 'investor' temporary residence. In this case the residency will be granted but limited to one year, unless it is proven that the investment is already under development. Basically, this visa application requires a capital investment of 1.5 million Argentinian pesos in a business in Argentina, and the submission of a detailed 'business plan' with the immigration authorities for their approval. Nonetheless, the Immigration Authority and National Ministry of Industry jointly analyse the proposed business plan and if it does not meet certain criteria and is not considered productive business, the application can be refused.

13 Is there a special route for highly skilled individuals?

Highly skilled personnel may apply for a temporary residence available for scientific and technical personnel. Basically, this visa application requires the submission of a contract linking the applicant to any public or private institution in Argentina, as well as supporting documentation certifying the applicant's specialisation and curriculum vitae.

14 Is there a minimum salary requirement for the main categories for company transfers?

There is no specific requirement of a minimum salary for the main categories for company transfers. However, in our experience, the personnel salary that is disclosed to the immigration authorities must be according to the position, and comply with a mandatory minimum wage established nationwide.

15 Is there a quota system or resident labour market test?

Argentina has neither restrictions nor quotas for the employment of foreign workers, so long as they fulfil immigration requirements.

16 What is the process for third-party contractors obtaining work permission?

A third-party contractor may apply for a special transitory residence in order to perform compensated works in Argentina. This visa is valid for a standard period of 30 days, and can be extended for an additional 30 days. For long-term projects, the contractor would be required to have a local presence in the country (ie, branch, affiliate or subsidiary) to be able to sponsor any temporary working residence for non-Mercosur citizens.

17 Is assessment or recognition of skills and qualifications required to obtain immigration permission?

Argentine immigration law does not require any assessment or recognition of skills and qualifications. Nonetheless, official recognition of a specific degree would need to be requested before the National Ministry of Education.

Extensions and variations

18 How can short-term visas be converted into longer-term authorisations?

Pursuant to Argentine law, foreign citizens holding transitory residence visas are authorised to request a change of residence status in order to obtain a temporary working residence visa in Argentina, irrespective of the assignment category under which it was granted. A formal petition must be filed before local immigration authorities 10 days prior to the expiry of the original residence.

19 Can long-term immigration permission be extended?

Temporary working residence visas can be extended for additional terms. However, upon the third year of temporary residence in Argentina the foreign national would be required to file a change of residence status and apply for permanent residency.

20 What are the rules on and implications of exit and re-entry for work permits?

In principle, foreign citizens holding temporary working residence visas must stay in the country for a period at least equal to half the time authorised by the Immigration Department. Otherwise, the visa may be revoked.

21 How can immigrants qualify for permanent residency or citizenship?

Under Argentine law, there are two criteria to qualify for permanent residency:

- parents, spouses and children of either Argentine citizens or permanent residents of Argentina may apply for and obtain immediate permanent residence visas; and

Update and trends

Social security agreements presently in force have been signed by Argentina with the following countries: Brazil, Chile, Spain, Greece, Italy, Paraguay, Portugal and Uruguay. Argentina is also a party to social security agreements with Ecuador, Peru and the Netherlands, which have not yet come into effect.

Employees coming from any of the countries that have signed social security agreements with Argentina that are currently in force

will be exempt from social security payments to the Argentinian retirement and pensions fund for a term of 12 months (which term may be renewed for an additional 12 months) if, in their respective countries, they are currently covered by comparable systems.

Where there is no agreement in force between the country from where a foreign employee originates and Argentina, the employee shall be subject to local labour and social security regulations.

- a foreign citizen holding a valid temporary residence visa may apply for a change of immigration status and obtain a permanent residence visa, after temporarily residing for three years in the country.

Foreign citizens may obtain Argentine citizenship by immigrating to Argentina and applying for naturalisation after residing in the country as legal permanent residents for a minimum two-year period.

- 22** Must immigration permission be cancelled at the end of employment in your jurisdiction?

The person or entity that was sponsoring the working residence visa must give notice to the immigration authorities about the termination of the expatriate's employment within 15 days after it occurs. In such case, the Argentine Immigration Department will cancel the foreign national's working residence visa.

- 23** Are there any specific restrictions on a holder of employment permission?

Under Argentine law, there are no specific restrictions on a holder of a working temporary visa. It is possible to change work, salary, be promoted, and work for another employer additionally.

However, citizens from a non-Mercosur country must report any changes in their employment status (especially if they work for another employer instead of the original sponsor) to the authorities of the Immigrant Sponsor Registry functioning under the scope the Argentine Immigration Department.

Dependants

- 24** Who qualifies as a dependant?

According to the Argentine Immigration Law, those considered as dependants are spouses (legally married), children under the age of 18 years old, disabled children even if over 18 years old, and

ageing parents. From July 2010, Argentina has recognised same-sex marriages at a federal level and therefore same-sex couples (legally married) can apply for family reunion visas.

Civil unions and registered partnerships are not recognised at a federal level by the Argentine government and thus, do not qualify for purposes of applying for family reunion visas.

- 25** Are dependants automatically allowed to work?

Pursuant to Argentine law, dependants of a holder of a temporary working residence visa are automatically entitled to work.

- 26** What social benefits are dependants entitled to?

A temporary resident and his or her dependants have the right to receive most social benefits that Argentine citizens receive, including public health-care coverage.

Other matters

- 27** Are prior criminal convictions a barrier to obtaining immigration permission?

Prior criminal convictions may become a barrier to obtain legal residence in the country. The Argentine immigration authorities will analyse applicants' criminal records on a case-by-case basis, but generally, they would be inclined to deny applications filed by serious offenders.

- 28** What are the penalties for companies and individuals for non-compliance with immigration law? How are these applied in practice?

Argentine immigration law prohibits employers from hiring illegal immigrants. It also obliges employers to comply with all labour and social security obligations. In case of non-compliance, infringing employers could be fined for each illegal worker they hire, equal to 50 times the minimum wage. Furthermore, the employer most

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probably would be subject to claims from the illegal employee as well as from Argentine authorities for payment of labour and social security dues.

Since the enactment of the new Immigration Law in 2003, the arrest of foreign nationals for deportation can only be ordered by a federal judicial court, which will ultimately conduct the deportation proceedings.

29 Are there any minimum language requirements for migrants?

Under Argentine law, there are no minimum language requirements for immigration purposes. However, if the foreign national wants to

apply for naturalisation and obtain Argentine citizenship, they must file a specific application with a federal civil and commercial lower court. Among other legal requirements, a federal judge will determine whether the applicant is sufficiently fluent in Spanish.

30 Is medical screening required for obtaining immigration permission?

Generally, the Argentine immigration authorities do not require any medical screening for obtaining legal residence in the country.



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