

Insurance Factsheet: Spain	
<p><b>Member organisation(s):</b></p> <p>CSCAE  <a href="#">Consejo Superior de los Colegios de Arquitectos de España</a></p> <p><b>Obligation to insure?</b></p> <p>Obligation in some regions for technical  Partial for promoters</p> <p><b>Legal Obligation to insure?</b></p> <p>For architects, professional indemnity insurance in Andalusia, Basque Country and Catalonia.  There are also legal obligation for professional societies.  In the case of professional developers, there is a mandatory ten-year liability insurance, guaranteeing stability in residential buildings. (Spanish Act, L.O.E. 38/1999)</p>	
<p><b>Legal Basis:</b></p> <p><b>Commonly used Term and Conditions:</b></p> <p>Legal Regulation (articles 1591 and following of the Civil Code + LOE "Ley de Ordenacion de la Edificacion" 38/1999), jurisprudence and contracts)</p> <p><b>What are the requirements needed in order to obtain an Insurance?.</b></p> <p>Depending on the insurer:  Registration order  Claims history...  Professional fees</p> <p><b>Calculation of insurance premium:</b></p> <p>Rate on the value of construction works  Percentage of fees  Risk type of works  Bonus malus according to the history of the architect</p>	<p><b>Contractual liability:</b></p> <ul style="list-style-type: none"> <li>- <b>Liabilities before and/or during the works:</b> Yes in respect of the budget, in respect of delays, for any defects. Tort and contractual liabilities.</li> <li>- <b>The end of the construction phase as a point of departure for a period of specific liabilities?</b>  Yes, Acceptance Certificate, even verbally.</li> </ul> <p><b>Liabilities after work:</b></p> <p>Contractual Liability 5 years for any defect. (10 years in Catalonia)</p> <p><b>Harm to the structure (to its soundness or stability):</b></p> <p>Yes, 10 years (material destruction)</p> <p><b>Unsuitability for the function:</b></p> <p>Yes, 3 years</p> <p><b>Hidden defects:</b></p> <p>Yes, 3 years but only for those that affect habitability. 1 year for execution defects</p>
<p><b>Forms of Insurance contract:</b></p> <ul style="list-style-type: none"> <li>- Subscription contract for all liabilities in a predefined period</li> <li>- Cover for architect in a specific project (very difficult)</li> </ul>	<p><b>Joint and several (in solidum) liability:</b></p> <p>Yes, ART. 17 loe, no derogation is possible by contract.</p> <p><b>Does the insurer respond to a claims made or claims rising basis?</b></p> <p>Claims Made. However in some cases 'Claims Arising'</p>
<p><b>Insurances / Agents:</b></p> <p>ASEMAS mostly, and others brokers</p>	<p><b>Duration of Liability:</b></p> <p><b>Professional client:</b>  Variable: 10, 3, 1 years; 5 years</p> <p><b>Consumer client:</b>  Variable: 10, 3, 1 years; 5 years</p> <p><b>Liability during and after construction:</b>  Contractual 5 years; tort liability 1 year, (10, 3 in Catalonia)</p>