

FREQUENTLY ASKED QUESTIONS ABOUT CROSS-BORDER MOBILITY AUTHORISATIONS (Law 14/2013)

Updated as of October 2016

General matters

What specific documentation do I have to submit to obtain the residence permit in Spain?

The general and specific requirements established for each type of permit must be proved, in accordance with the provisions of Law 14/2013. An indicative list of the documentation can be found at this link:

http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14_2013/documentacion/index.html

Which requirements must I meet to obtain a long-term residence permit?

The general requirements set forth in the Regulation of Organic Law 4/2000 must be met in order to obtain a long-term residence permit. The most common case is to *have resided legally and continuously* in Spanish territory for five years.

The residence will not be affected by absences from the Spanish territory of up to six continuous months, provided that the sum of these does not exceed a total of ten months (or one year if the absence is for employment-related reasons) within five years, except if the applicant left the territory in an irregular manner.

Can holders of an investment visa be admitted to any EU State? Can they do it more than once?

Foreigners holding a long-stay visa or a residence permit issued by one of the Member States may, under that permit and with a valid travel document, circulate freely for no more than three months in any six-month period, within the territory of the other Member States, provided that

- they comply with the conditions for entry referred to in article 6.1 (a), (c) and (e) of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 establishing a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), and
- they do not appear in the national refused entry list of the Member State in question.

The conditions of entry are:

(a) To be in possession of a valid travel document giving the holder the right to cross the border and meeting the following criteria

- shall remain valid for at least three months after the intended date of departure from the territory of the Member States. In justified cases of emergency, this obligation may be waived,

- must have been issued within the previous 10 years;

(c) To be in possession of documents justifying the object and the conditions of the intended stay and having sufficient means of subsistence, both for the period of stay envisaged and for the return to the country of origin or transit to a third country in which their admission is guaranteed, or be in a position to legally obtain said means

d) Not be registered as not admissible in the SIS;

e) Not to pose a threat to the public order, internal security, public health or international relations of any of the Member States or, in particular, be listed as inadmissible in the national databases of any Member State for the same reasons.

It should also be borne in mind that there is a possibility for a Member State to impose by law the obligation on third-country nationals to declare their presence on their territory in accordance with Article 22 of the Schengen Convention. Spain has imposed this obligation.

Where are the initial applications for these permits and their renewals processed?

At the Unit of Large Companies and Strategic Economic Sectors of the General Immigration Sub-directorate, belonging to the General Directorate of Migration, within the General Secretariat of Immigration and Emigration of the Ministry of Employment and Social Security, at Plaza de la Remonta 12, 3rd floor, CP 28.071, in Madrid.

Where are applications for residence permits filed?

Applications for residence permits regulated by Law 14/2013 must be filed through the electronic office of the Ministry of Employment and Social Security, where all information on electronic processing can be found:

<https://explotacion.mtin.gob.es/ley11/inicio/showTramites.action?procedimientoSel=200&proc=1>

Who is the applicant for each permit and who can apply?

The applicant, depending on the type of permit, may be:

- In initial permits:
 - In the case of investors and entrepreneurs, the foreigner himself
 - In permits for highly qualified professionals, researchers or intra-company transfers, the company or entity that requires the services of the foreigner
 - In family permits:
 - If the application is filed jointly with the permit holder, it will be the holder (in the case of investors and entrepreneurs) or the company or entity (in the case of highly qualified professionals, researchers or intra-company transfers)
 - If the application is filed at another time, it may be one of the above or the family member
- Renewals are filed by the foreigner who holds the permit (relatives apply for renewal of their own permit).

Applications may be filed by the interested party himself or through a representative.

How is the Foreigner's Identity Card (TIE) processed?

Foreigners who have been issued a residence visa under this rule may stay in Spain for a period of one year, the residence of its holder in Spain is authorized without the need to process the foreigner's identity card.

However, those who obtain a residence permit under Law 14/2013 must personally apply for the foreigner's identity card. The decision granting the permit indicates the procedure, documentation and where it can be requested.

Do I have to submit copies and originals?

When filing the application personally, you must bring the original and copy, the UGE will only keep the copy. If you file it in a public registry, you must bring the original and copy and send only a certified copy

Where can I find the application forms?

Residence permit application forms can be found in this link:

http://extranjeros.empleo.gob.es/es/ModelosSolicitudes/ley_14_2013/index.html

If a foreigner is in Spain legally at the time of application but will not be so at the time the decision is issued. Is the application admissible?

The law requires not to be irregularly in Spain, therefore this requirement must be fulfilled at the time of the application.

The application for a residence permit will extend the validity of the residence or stay situation of the permit holder until the end of the procedure.

Can the holder of a residence permit of Law 14/2013 modify a permit regulated by Organic Law 4/2000 and its Regulations?

Yes, it is possible, as long as the requirements to modify a permit established by the Regulation of Organic Law 4/2000 are met.

Can family members work with their residence permit?

Yes. The fourth additional provision of Law 14/2013 establishes that residence permits authorize residence and work (self-employed work and working for others).

What is meant by public or private insurance?

During his residence in Spain the foreigner must have coverage, either of public or private health insurance.

There is no requirement to prove coverage when there is a prospect that the foreigner (as well as his family) will be insured by the National Health System, by registering with Social Security as a result of an employment contract or a professional relationship.

In the case of entrepreneurs, if the activity is not to be started immediately, limited duration insurance is accepted (for example travel insurance, which will usually have a validity of three months).

In all other cases, public or private health insurance must be arranged with an insurer authorized to operate in Spain, for coverage equivalent to that of the National Health System and for the duration of its permit or for at least one extendable year (travel insurance is not valid).

For queries about Social Security contributions, please refer to this website: http://www.seg-social.es/Internet_1/Lanzadera/index.htm?URL=3

How can I prove that I have the financial means?

The law does not establish a monetary amount or a specific documentation. Therefore, you can prove that you have economic means by any means of proof admitted in Law. For example, with the employment contract offer, payroll receipts, the average annual balance of bank accounts, deposits, etc.

Is it necessary to provide translation and legalization of foreign documents?

All documents must be translated into Spanish. In the case of foreign public documents, they must also carry the apostille of the Hague Convention or, failing that, have been legalized through diplomatic channels.

You can obtain more information about document legalization from these links:

- <http://extranjeros.empleo.gob.es/es/InformacionInteres/InformacionProcedimientos/Ciudadanosnocomunitarios/hoja098/index.html>
- <http://www.exteriores.gob.es/Portal/es/ServiciosAlCiudadano/InformacionParaExtranjeros/Paginas/Legalizaciones.aspx>

Inquiries about investor permits

Can I obtain a residence permit as an investor if I am in Spain?

You can obtain your investor permit in two ways:

If you are outside Spain you can apply for an investor visa at the consulate of your country of residence, this will allow you to reside in Spain for up to one year. During this period you can apply to the Large Companies Unit to obtain a residence permit.

If you are already in Spain legally (in a short stay or as a holder of a student (stay) permit or a residence permit) you can apply directly for the residence permit to the Large Companies Unit, without having to apply previously for an investor visa.

If a family residence permit is applied for, is it necessary to invest the amounts required by Law 14/2013 (€ 500,000 in real estate, € 1 million in shares, participation units or deposits, € 2 million in public debt securities) for each member of the family?

No additional investment is required for each family member.

The investment indicated in Law 14/2013 (article 63) allows obtaining a permit as an investor. The holder of such permit may (in accordance with the provisions of article 62.4) apply for a permit for his spouse and children under 18 years of age or older who are not objectively able to provide their own needs due to their health, and who will meet or accompany the investor.

Said permit depends on the investor and in order to obtain it the applicant must prove that he meets the general requirements, including that the investor has financial resources for his family (which may be proved by any means of proof: income, wealth, etc.), as well as the corresponding health insurance.

As an example, if a married couple acquires property for an amount of 1,000,000 euros, both spouses may obtain an investor visa. If the property has a value of 500,000 euros, the buyer may obtain an investor visa and his spouse may also obtain said visa as a family member, provided that the investor proves that he has financial resources and health insurance for both.

If property is acquired with the specification that this acquisition is carried out under the marital common property regime and the amount does not exceed twice the minimum established, any of the spouses may obtain the investor residence permit and the other spouse may obtain a family residence permit.

Can the investment be made through a legal entity?

Yes, provided that it is domiciled in a territory that does not have the status of tax haven in accordance with the Spanish law, and the applicant must have a majority of its voting rights and have the power to appoint and dismiss the majority of the members of its administrative body. To prove this, the applicant must request a report from the General Directorate of Trade and Investments.

Scope of the law 14/2013 in the acquisition of real estate

The law 14/2013 establishes in its article 66 that an investor visa may be applied for, with regard to the provisions of article 63 on investor visas, when real estate property is acquired in Spain through an investment equal to or greater than 500,000 euros for each applicant or, if it is made through a legal entity, the residence permit will be granted only to the person with the majority of the company's shares, and also establishes a special regime for couples married under the community of property regime.

That is the only scope of application of the law. Therefore, when a property is acquired by several natural persons who do not form a company, they are not included in that scope. Law 14/2013 does not contemplate the possibility that several natural persons jointly acquire a property, unless they incorporate a company and form part of a legal person

The law has not regulated buying a part of a property, but buying one or more properties, that is, one property as a whole ("the acquisition of real estate properties in Spain"). The possibility of granting an investor's residence permit based on the acquisition of real estate properties by several individuals is not contemplated.

Inquiries related to permits for entrepreneurs

How it is established that an entrepreneurial or business activity is innovative and represents a special economic interest for Spain?

In order to prove that an entrepreneurial or business activity is of an innovative nature with a special economic interest for Spain the documentation related to the business plan must be submitted to the Large Companies Unit together with the application for residence permit. The Large Companies Unit will request ex officio from the Ministry of Economy and Competitiveness a report on the innovative nature of the project, and the Ministry will issue said report within 10 business days.

Inquiries about permits for highly qualified professionals

What is a highly qualified professional?

The assessment of a position as pertaining to a highly qualified professional is made on an individual basis taking into account, among other matters, the academic degree, professional competence, professional experience, job profile, functions to be developed and remuneration adequate to the position, paying attention to the singularity of graduates or postgraduates recently graduated in the case of article 71 c) of the Law.

Which sectors are considered strategic according to article 71 a) 5º?

In order to certify that a company belongs to a strategic sector, a report may be requested from the Directorate General for Trade and Investment (which belongs to the Ministry of Economy and Competitiveness) to certify this consideration for the purposes of Law 14/2013, and file it together with its application (more information on this report can be obtained by calling 900 349 000, email informacion@icex.es or at the web page <http://prie.comercio.es>).

If a foreigner has studied but still has not obtained a diploma because it will take a few months for it to be issued, how can that be proven?

Other evidences of having a diploma that are different from the diploma itself are accepted, for example:

- In the case of a Spanish diploma, a certificate from the school attesting that the studies have been completed, the corresponding fees have been paid and issuance of the degree is pending.
- If it is a foreign degree, a certificate from the corresponding university authority is required, duly translated and apostilled / legalized (as a public document).

Inquiries about permits for researchers

What type of permit of those provided in the current regulations should a researcher apply for?

Currently there are several types of permits for researchers regulated in Organic Law 4/2000 and in the Regulation that develops said law, in addition to the permit provided in Law 14/2013.

It is recommended to apply for the permit regulated by Law 14/2013 because it is the most flexible and the one that intends to include all the particularities of this group of professionals.

Inquiries about renewals

The initial permit and renewals will be granted for two years or for the duration of the employment or professional relationship if it is not an indefinite contract and its duration is shorter. In the case of investors, the renewal will be for periods of five years.

The filing of the application for a permit may be made in any public registry in accordance with the provisions of Law 30/1992. It must be addressed to the Unit of Large Companies and Strategic Economic Sectors. Likewise the application may be filed with the Unit of Large Companies itself, by appointment. The address of said Unit is Plaza de la Remonta nº 12. 3rd floor, Madrid 28071.

Applications can be submitted by the applicant himself, or through a representative.

Filing the application for renewal will extend the validity of the permit until a decision is adopted. This validity will also be extended in the event that the application is filed within ninety days after the end of the previous permit, without prejudice to the initiation, if appropriate, of the corresponding sanctions proceeding.

What are the requirements to renew the permit?

To renew the authorization, the applicant must have maintained the conditions based on which the permit was granted. That is to say:

- In the case of investors it is necessary to have kept the initial investment in place.
- In the case of entrepreneurs, the project must have been maintained in the terms under which it was considered to be a project of general interest.
- In the case of highly qualified professionals, researchers and intra-company relocation, the employment or professional relationship must be maintained.
- In the case of relatives, they may renew their permit if the foreigner who gives them rights renews his own permit and if the economic dependence, in the case of ascendants and children over 18, is ongoing.

More information

You can send your queries on the residence permits regulated in Law 14/2013 to the email movilidad.internacional@meyss.es

For inquiries regarding visas, we advise you to contact the Ministry of Foreign Affairs and Cooperation, at: visados.emprendedores@maec.es

For inquiries regarding reports on investors projects of general interest (article 63.2 c) and 66.2 c), investments made through legal entities (article 63.3 and 66.2 d), strategic sector SMEs (article 71.1 a) 5º) and business projects of general interest (article 71.1 b), please contact the Ministry of Economy and Competitiveness on the phone 900 349 000 or at the email informacion@icex.es