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# Report on the Implementation of the International Mobility Section of the Entrepreneurial Support and Internationalisation Act of 27 September 2013



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## I. EXECUTIVE SUMMARY

This report gives effect to the Eleventh Final Provision of the Entrepreneurial Support and Internationalisation Act of 27 September 2013 (hereinafter, *Ley 14/2013*), the contents of which read thus: “*on an annual basis, the Ministry of Employment and Social Security shall, in conjunction with the ministries of Foreign Affairs and Co-operation, the Interior and Economy and Competitiveness, shall submit a report to the Council of Ministers on the implementation of Section 2 of Title V of this Act*”.

The purpose of the report is thus to analyse, one year after the entry into force of *Ley 14/2013*, the degree of implementation of Section 2 of Title V of the same on *international mobility*. In the context of this regulatory text, *international mobility* means the regulation of procedures to facilitate and expedite, essentially for reasons of economic interest, entry and residence in Spain for certain categories of foreign nationals to whom European law is not applicable and who are not beneficiaries of the rights of free movement and residence.

Against this backdrop, the Ministry of Employment and Social Security, through the Secretariat General for Immigration and Emigration, in coordination with the ministries of Foreign Affairs and Co-operation, the Interior, and Economy and Competitiveness, has drawn up this report, which analyses the most relevant aspects of the new international mobility model introduced by *Ley 14/2013*, the successes of its implementation, opportunities for improvement and areas for development made apparent by its day-to-day application.

As stated in the preamble to *Ley 14/2013*, the global economic crisis has revealed better performances among internationalised enterprises and the importance of internationalisation as a factor of growth and risk diversification. The world's countries have realised the need to move towards new sustainable, smart and integrative models. Talent-based economies are more sustainable in the long run and provide a boost to key sectors such as R&D+i and entrepreneurship.

Considering migration policy as a reflection of a country's economic policy will help to frame the change in Spain's immigration policy since 2013.

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Traditionally, Spanish immigration policy has focused on managing labour migration flows in accordance with job market needs, paying special attention to aspects of security but disregarding economic internationalisation. Although this approach was useful in the past, it has proved inadequate for the new global economic context.

The need to internationalise the economy, boost the presence of foreign companies, attract talent and foreign investment to Spain, deseasonalise and diversify the Spanish tourism sector and remove barriers to foreign entrepreneurship and investment in business projects with an impact on job creation and which positively affect our geographical scope or a sector of general interest for our economy determined the decision to conduct an assessment of the strengths and weaknesses of our immigration policy in 2012.

In a new development, this assessment was conducted by a multidisciplinary team composed not only of the traditional actors in immigration policy (Ministry of Employment and Social Security, Ministry of the Interior, Ministry of Foreign Affairs and Co-operation) but also the Ministry of Employment and Competitiveness. This Ministry introduced a trade slant to the analysis and played a key role in identifying the barriers posed by immigration policy to the attraction of investors and entrepreneurs.

The analysis detected the need for a new model that saw international mobility as an element of competitiveness, since the traditional system revealed major shortcomings:

- Investors: there was no specific system for the admission and residence of investors. As a result, they were subject to other systems that did not meet their needs, such as the residence-only permit, which required effective residence in Spain, while investors, by their nature, travel from country to country and stay only for fairly short periods to see how their investment is performing.
- Entrepreneurs: the temporary residence and work permit for self-employed workers has major shortcomings because it is restricted to a geographical area not exceeding that of an autonomous region and to a specific sector, which posed barriers to market unity. Furthermore, the Ministry of Economy and Competitiveness was not involved in decisions to award these permits, so business projects were not assessed from a trade perspective.

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- Highly qualified professionals: the National Employment Situation was applied to all cases except for those processed by the Large Business and Strategic Groups Unit (*Unidad de Grandes Empresas y Colectivos Estratégicos*, UGE). Moreover, the definition criteria, especially with regard to salary threshold, were even stricter than the EU Blue Card Directive, which posed a real barrier for young graduates in particular.
  - Provision of transnational services: the definition of the requirements was too rigid.
  - Researchers: the system was very complex and not coordinated with the science legislation. It also required a dual permit (residence and work).

The regulations had been drafted with a view to protecting the domestic market rather than supporting the internationalisation of the economy. The analysis did however find the Large Business and Strategic Groups Unit – a centralised management unit specialising in cases of economic interest – to be a strength.

These shortcomings compromised the flexibility required of the system by the modern economy and undermined its competitiveness. As a result, and as revealed by the OECD Open for business<sup>1</sup> study, in 2007-2008, Spain had one of the lowest rates of entrepreneurship among its foreign population in comparison to other European countries.

In the light of this and in a bid to design a more flexible regulation that highlighted immigration policy as being key to competitiveness, on 27 September 2013, Spain passed its Entrepreneurial Support and Internationalisation Act (*Ley 14/2013*), an economic migration regulation for categories of economic interest, i.e. investors, entrepreneurs, highly qualified professionals, researchers and intra-corporate transfers. With regard to the latter concept, the flexibility and open nature of its definition have allowed the inclusion in this category of some of the concepts negotiated in the context of Mode 4 in trade agreements. Thus, Spain has improved its negotiating position in the trade sector.

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<sup>1</sup> OECD (2010) Open for Business: Migrant Entrepreneurship in OECD countries, OECD publishing

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More than a year since its entry into force, the total number of visas and permits issued<sup>2</sup> amounts to 5,581, broken down thus: 531 to investors, 82 to entrepreneurs, 1,231 to highly qualified professionals, 369 for training and research, 907 for intra-corporate transfers and the remainder (2,461 in total) to family members, since this legislation lays down specific rules for family reunification.

The estimated value of the investment received amounts to EUR 694 million and, in relation to jobs, it is estimated that 12,685 new ones have been created, of which 8,581 were direct and 4,104 were generated indirectly under this legislation.

The legislation has been very well received by economic agents and the OECD, which qualified the adoption of the new regulatory framework as particularly relevant in its International Migration Outlook 2014. The OECD states, *“this specific model combines the perspectives of support to business internationalisation and the promotion of economic growth based on the traditional goals of migration policy: security and employment”*.

The report makes a very positive overall assessment and highlights the following elements:

- Contribution to the establishment of a framework conducive to the internationalisation of the economy.
- Improvement of the international view of Spain as a destination for investment and talent.

Nonetheless, it contains some recommendations to enhance the potential impact of the new mobility framework:

- Regulatory adjustments:
  - Further development of the investor concept by increasing the beneficiaries (registered co-habiting partner, ascendants and dependent adult children), the investor's representative, review of the duration of permits, introduction of

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<sup>2</sup> The figures are for the period from the entry into force of the Act (29/09/2013) to 31 December 2014.



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visas for guaranteed preliminary contracts, possibility of the investor requesting the permit directly from the UGE.

- Broader transposition of the new ICT Directive.
- Progress in promoting the regulation by means of an Awareness-Raising Plan.
- Analysis of consistency with the general regulatory context: encouraging reflection in other areas, e.g. fiscal, educational, labour, social security, etc.
- Continued work towards a reciprocal opening for Spanish companies in other key states.

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## II. INTRODUCTION: NEED FOR A NEW REGULATORY FRAMEWORK FOR INTERNATIONAL MOBILITY

Political, economic and social forums have for some time been drawing attention to the imminent need for simplified international mobility processes as a key element of Spain's competitiveness in a globalised economic environment.

In this context and driven by policies called for by the international community in this regard, an Interministerial Working Group was set up, (comprised of the ministries of Employment and Social Security, Foreign Affairs and Co-operation, the Interior, and Economy and Competitiveness). This Working Group conducted a comparative analysis of immigration policies in order to pinpoint barriers to attracting talent and international investment to Spain.

The assessment concluded that a new model was needed that saw international mobility as an opportunity to attract talent and investment to Spain to contribute to economic growth, as occurs in neighbouring countries and as predicted by international agencies. Section 2 of Title V of *Ley 14/2013* addresses this point.

### 1. Comparative view: boosting international mobility from abroad

The importance of international mobility as a contributing factor to economic growth is reiterated by diverse forums (i.e. International Monetary Fund, World Bank, United Nations, etc.). Moreover, virtually every country in our socio-economic area has been implementing policies for attracting investment and foreign talent for years.

A description now follows of some of the support received by *Ley 14/2013* from outside Spain's borders. Today, this legislation is a paradigmatic example in these international forums.

#### 1.1. Boost from the European Union

The European Union has implemented several measures to attract foreign investment and talent to Europe.

One example is the communication from the Commission of 3 March 2010 entitled “*Europe 2020: A strategy for smart, sustainable and inclusive growth*”, which underlines

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the contribution of the attraction of talent to economic growth and employment, and calls on Member States to remove obstacles to the entrepreneurship of legal migrants.

Likewise, the *Stockholm programme* adopted by the European Council at its meeting on 10 and 11 December 2009 called on the Member States to increase the effectiveness and efficiency of immigration systems in order to facilitate access and residency to foreign nationals for reasons of economic or commercial opportunity. In this regard, the European Council advocated increased flexibility in migration policy and improved coherence between migration policy and trade policy.

More recently, the new political priorities of the Justice and Home Affairs area adopted by the European Council in June 2014 clearly state that “*To remain an attractive destination for talents and skills, Europe must develop strategies to maximise the opportunities of legal migration*”. Also of note were President Juncker's words spoken during the presentation of his agenda in October, when he expressed his desire to “promote a new European policy on legal migration to address shortages of specific skills and attract talent [...] and allow Europe to become at least as attractive as the favourite migration destinations”. At the hearing before the LIBE Committee of the European Parliament on 30 September 2014, Mr. Dimitris Avramopoulos, Commissioner for migration and home affairs, also indicated his desire to implement a specific and integrated policy for attracting talent.

This report will now cite some of the key regulatory milestones demonstrating the desire of the European Union to push forward in the field of international mobility:

- Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (the *Students Directive*).

Measures are being developed under this directive to facilitate the entry into Europe of third-country nationals requesting admission to the territory of a Member State in order to study, participate in a pupil exchange, an unpaid training or a volunteer service, with a view to making Europe a global hub of excellence.

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- Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of *scientific research*.

This directive sets the conditions for admission to the Member States by third-country researchers for stays of more than three months for the purpose of carrying out research projects in the framework of host agreements with research institutions. The aim of this directive is to attract researchers from all over the world and transform the European Union into a global research hub.

- Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

This directive introduces a fast-track procedure to allow for the possibility of granting these skilled migrants the “*blue card*”, a measure designed with the aim of attracting highly qualified human capital to the European Union.

The Commission is, however, now reworking this directive because its aims, while laudable, have been surpassed by (i) the development of migration, (ii) international needs, and (iii) the individual policies of Member States with more favourable parallel national systems. The communication from the Commission dated 22 May 2014 on the transposition of the directive covers aspects such as the elements explaining why it has been less effective than expected, highlighting the rigid definition of highly qualified professional used by the Directive and the difficulties posed by the use of salary limits. The new Commissioner has stated that an amendment to the directive will be proposed in 2015 with a view to producing a text that truly contributes to increasing the attractiveness of the EU as a destination country for qualified migration.

- Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (also known as the *Intra-Corporate Transfer – ICT – Directive*).

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This directive, whose transposition period expires on 29 November 2016, in its own words, aims to, “*facilitate mobility of intra-corporate transferees within the Union (‘intra-EU mobility’) and to reduce the administrative burden associated with work assignments in several Member States*”.

Although this directive is subsequent to the adoption of *Ley 14/2013*, it must be included in the same context since the motivation for its adoption was the same as that which led to the introduction of the Spanish legislation. More importantly, Spain's role in the discussions and negotiations for its adoption by the European institutions ensured that the wording of Section 2 of Title V of *Ley 14/2013* was substantially analogous to the final text of the directive, although its subjective scope is less extensive. It has now been formally announced to the Commission that the directive has been partially transposed into the Spanish legal system through *Ley 14/2013*.

The studies and informative actions of the European Migration Network<sup>3</sup> are further proof of the European Union's growing interest in international mobility as a key way of attracting talent, investment and entrepreneurship.

Between 2009 and 2014, the network implemented at least five Ad-Hoc Queries on foreign investors and more than 11 related directly or indirectly to the attraction of qualified or highly qualified professionals.

Two of its studies have also focused on this topic. The REM study on the attraction of qualified and highly qualified third-country nationals was drafted and published in 2013 and the National Contact Points recently conducted the REM study on the admission of third-party nationals from the business world (*business-related migration*) in an attempt

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<sup>3</sup> The European Migration Network was set up by Council Decision 2008/381/EC and is funded by the European Union. Coordinated by the European Commission, it is formed by a network of National Contact Points designated in each Member State and in Norway.

In Spain, the NCP is composed of experts from the Ministry of Employment and Social Security, the Ministry of the Interior, the Ministry of Foreign Affairs and Co-operation, the Ministry of Justice and the General Prosecutor's Office, coordinated by the Sub-Directorate General for the Legal System of the Secretariat General for Immigration and Emigration.

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to provide a systematic overview of the policies of the Member States on attracting investors, entrepreneurs and Mode 4 categories<sup>4</sup>.

One example of this is the current negotiation of a proposal to recast the students and researchers directives with a view to boosting the attraction of talent to the EU. There has also been mention of the desire to initiate a process of reflection and improvement with regard to the Blue Card Directive. These negotiations will attempt to provide answers to the challenges identified by the two studies.

All of the above examples point to the EU's interest in fostering qualified mobility.

#### 1.1.1. Perspective of the Member States of the European Union

With regard to the individual Member States, the study drafted by the European Migration Network on “*admitting third-country nationals for business purposes*”<sup>5</sup> revealed that most Member States are implementing policies to attract talent and foreign investment. These policies all attempt to strike a balance between the promotion of this migration and the adoption of measures to guarantee the secure movement of persons.

According to the above study, the most common actions for this attraction are (i) the inclusion of fast-track access and residency procedures, (ii) the introduction of more favourable tax systems or (iii) the facilitation of the joint entry of family units.

All this shows that both the European Union and the Member States have been implementing policies to foster qualified migration for some time, so Spain had to become part of this process, hence its implementation of *Ley 14/2013*, which has made it one of the drivers of international mobility at EC level.

#### 1.2. Position of the Organisation for Economic Co-operation and Development (OECD)

For several years now, the OECD has been pointing out the existence of a *global competition for talent*<sup>6</sup>, since the importance of a highly qualified workforce in a

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<sup>4</sup> Point 2.3 of this report explains Mode 4 within the context of trade agreements.

<sup>5</sup> EMS Focussed Study 2014 on “*admitting third-country nationals for business purposes*”.

<sup>6</sup> OECD (2008), *The Global Competition for Talent: Mobility of the Highly Skilled*.

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knowledge-based economy cannot be ignored. The key findings and recommendations of the OECD in this regard are:

- The mobility of talent contributes to the dissemination and creation of knowledge, especially of tacit, informal or codified knowledge, which cannot be transmitted through articles, conferences or reports.
- Talent mobility is not a **zero-sum game**. It can generate benefits for the host society, the individual, the society of origin (through the enrichment and extension of knowledge) and for global knowledge in general. At this point, we need to replace the concept of “brain drain/brain gain” with that of “brain circulation”.
- It is necessary – and rare – to evaluate talent attraction policies in order to identify good practices and barriers or obstacles.
- Talent attraction policies must be inserted within a global policy to support innovation and talent. The purpose of this is to make the objective consistent with other policies.

This international competition for talent can be confirmed by the fact that most OECD member countries have policies to attract talent and either incorporate it into the system (as highly qualified staff of companies, research staff, etc.) or to enable it to embark on new projects in the destination countries.

In the assessments made by the OECD, the Spanish regulation was an obstacle for the attraction of talent, as well as for foreign entrepreneurship. Proof of this can be found in OECD data obtained from its “*Open for Business*”<sup>7</sup> study, which showed that Spain had the lowest rates of foreign entrepreneurship of all EU countries.

Against this backdrop and with a view to increasing the attractiveness of Spain, the OECD studies indicating the factors that contribute to this attraction were analysed. These ranged from purely structural factors specific to the individual country (i.e. research infrastructure or opportunities to work with greater and more freedom of discussion) to economic (i.e. pay level, access to research funds, etc.), and personal ones (i.e. the

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<sup>7</sup> OECD (2010) *Open for Business: Migrant Entrepreneurship in OECD countries*.

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possibility of maintaining personal or family ties). Immigration policy was also found to be the first barrier to access to talent.

Based on these findings, the institutional and regulatory environment of the host State was identified as a basic factor in the promotion of entrepreneurship and competitiveness and, in Spain, it was an obstacle.

*Ley 14/2013* is an attempt to put an end to this shortcoming and it does so successfully in the opinion of the OECD, as will be shown in the analysis of the effects of its implementation.

### 1.3. Trade agreements

The trade agreements negotiated by the European Union with third countries on behalf of the Member States include a chapter on service trading, since services provided by individuals (known as Mode 4) are becoming increasingly important.

Trade agreements are in turn regulated by the General Agreement on Trade in Services (GATS)<sup>8</sup> of the World Trade Organization. This agreement is the first set of multilaterally agreed rules and principles governing international trade in services. It comprises three elements: (i) a general framework of basic obligations for all members of the WTO; (ii) national schedules of specific commitments for access to markets and, thirdly, (iii) annexes laying down special conditions applicable to different sectors.

The GATS does not provide a definition of the concept of service; instead it defines "trade in services" through its four means (or "modes") of delivery of services, namely (i) "*cross-border supply*" (mode 1), (ii) "*consumption abroad*" (mode 2), (iii) "*commercial presence*" (mode 3) and (iv) "*presence of natural persons*" (mode 4).

The WTO has therefore extended its approach beyond its traditional one limited to trade in goods to promote the international mobility of talent through the liberalisation of services, including the movement of persons to provide such services (although issues of visas or residence and work permits are not covered in this framework); indeed, it has a

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<sup>8</sup> General Agreement on Trade in Services (GATS).



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specific annex for Mode 4. This highlights the importance afforded by this international forum to the international movement of persons in the context of qualified migration.

## 2. Diagnosis of the situation in Spain prior to the approval of *Ley 14/2013*

An analysis of Spanish immigration legislation and qualified migration was conducted in 2012. Prior to the approval of Section 2 of Title V of *Ley 14/2013*, international mobility issues were regulated by general immigration legislation to which, under the impetus of the European Union, minor modifications were made to accord a different treatment to certain categories of foreign nationals for their possible contribution to the economy (i.e. researchers and highly qualified professionals).<sup>9</sup>.

As a result, immigration policy was found to be focused on the management of flows of workers who were, in many cases, unskilled. The *Spanish legal system was discovered to have important failings with regard to the attraction of qualified migration*. The immigration policy was a faithful reflection of the Spanish production model, so there was considerable demand for unqualified labour in the construction and services sectors.

From a general point of view common to all categories, the greatest weaknesses of the Spanish immigration model in terms of qualified migration were:

- It lacked the flexibility called for by the global economic context, essentially because:
  - With few exceptions, the National Employment Situation was applied on a widespread basis to determine the possibility of hiring foreign nationals. In contrast to other European countries such as Germany, which does not apply the National Employment Situation to highly qualified workers, the Spanish legislation applied it in all cases except those processed by the Large Business and Strategic Groups Unit, which we will discuss later.
  - The concept of "highly qualified professional" was excessively rigid (it was limited, inter alia, to the concurrence of three conditions: level of studies, salary and experience). In particular, the biggest failure of the Blue Card

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<sup>9</sup> The main change in this regard was introduced by *Ley Orgánica 2/2009*, of 11 December, reforming *Ley Orgánica 4/2000*, of 11 January (Rights and Freedoms of Foreign Nationals Act).

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Directive has, in the Commission's view, been the salary threshold, which was too high and did not match the profile of young graduates. In Spain, the application of this threshold was even more pernicious for the highly qualified, since it was even higher than the thresholds of the directive.

- The legal system was not more favourable than that laid down in the “*Blue Card Directive*” for professionals with a potential interest for the economy, in contrast to what was happening in the majority of the Member States (the Netherlands, Austria, France, etc.).
- Major barriers to market unity were imposed (given the geographical limits of the permits). This was particularly serious in the case of the residence and work permit for self-employed workers, who were required to apply for several permits to provide a national service, in clear contrast to the principle of market unity.
- It did not suit the internationalisation needs of Spanish enterprise (because there was no regulation of intra-corporate transfers, inter alia). Processing was drawn-out, the requirements were too bureaucratic and, ultimately, the regulatory framework was not favourable to business, investment and entrepreneurship.
- One of the concepts negotiated in trade agreements – independent professionals – was not regulated in the Spanish legal system, which hindered negotiations considerably.
- The procedure entailed excessively long processing times and the officials working at immigration offices were unaware of the needs of enterprise to attract talent.
- The talent of young foreign nationals studying in Spain went to waste because the immigration law made it very difficult for them to change their status once they had completed their studies, since it required them to have studied in Spain for at least three years. This shortcoming particularly affected young people studying for master's qualifications at business schools.

Spain is home to a number of leading international business schools that are increasingly including more entrepreneurship in their programmes. In general, master's courses last for one or two years so, because of the requirement of having

studied in Spain for at least three, they were unable to stay to find work as highly qualified professionals or start their own businesses. As a result, Spain suffered from the problem of talent retention. Examples of this weakness include: the top entrepreneur of the IE school had to go to the United Kingdom because he was not granted a permit; on another occasion, a Berkeley/IE graduate was unable to obtain a permit until *Ley 14/2013* was passed.

This direct problem of talent retention had an indirect effect on Spain's ability to attract talent since the well-known difficulties of settling in Spain meant that these students looked to other countries with less obstacles after having invested their time and effort here.

Notwithstanding the above, there were *some strengths to the system*, notably the creation in 2007 of the Large Business and Strategic Groups Unit, which specialised in processing permits in the economic interest based on a tailored procedure. However, the thresholds for defining the powers of the UGE were too great.

With regard to individual categories, and without prejudice to the comparison between the system laid down in *Ley 14/2013* and the provisions of the LOEX provided in the Annex to this report, the main shortcomings were:

Category	<b>Weaknesses in the national legislation prior to <i>Ley 14/2013</i> (LOEX and its implementing regulations)</b>
Investors	<p><u>There was no specific system</u> to suit the needs and characteristics of the investors category.</p> <p>This meant that investors were subject to the arrangements laid down for <u>residence-only permits</u>, which were not designed for this category and required continuous residence.</p> <p>Under this procedure, <u>candidates were required to apply for a visa and an initial residence permit</u>. The visa allowed them to come into the country (but was not sufficient for residence) and the permit was issued for a duration of one <u>year</u>.</p> <p>Renewal of the permit required <u>effective residence</u> in the country for more than 180 days.</p>

	<p>A study of the figures for residence-only permits and an analysis of their distribution by age found that, on 31 December 2012 (the year in which the reflection process was undertaken), a total of 89,849 non-profit residence permits were in force, of which 51% had been granted to foreign nationals under 16 and 14.17% to those aged over 16 and less than 18 years.</p> <p>A misuse of this type of permit was also detected in the sense that it was being used to circumvent immigration laws for the granting of work permits (thereby making control of the national labour market situation impossible) since holders changed their status after one year with this permit.</p>
Entrepreneurs	<p>Foreign entrepreneurs wishing to set up a business in Spain were required to apply for a <u>work permit for self-employed workers</u>, the characteristics of which were not "<i>business friendly</i>".</p> <p>The permit for self-employed workers was designed not as a <u>single permit</u> but as a double permit: one for residence and one for work.</p> <p>It posed significant <u>barriers to market unity</u> (because of the geographical limits of the permits) and was limited to a particular sector of activity.</p> <p>There was no <u>requirement for (i) study of the project</u>: in no case was the presentation of a business plan required and there was no study on how the project would affect the general interest of the country; or of (ii) the "<u>inherent risk of the activity</u>"; in any event, success had to be assured.</p> <p>The application had to be made in the country of origin or residence, so foreign nationals could not request this permit once in Spain. It was not therefore conducive to status changes (even though diverse studies, such as the OECD's renowned <i>Open for business</i> identified foreign nationals already residing in the country as one of the main sources of foreign entrepreneurship). This barrier was especially clear in the case of international students, who were required to remain in the country for a minimum of three years as students before they could apply for a change in status.</p> <p><u>Processing times were excessively long.</u></p> <p>Both the initial award and subsequent renewals were carried out by <u>immigration offices, regardless of the trade</u></p>

	<p><u>perspective and without the participation of the Ministry of Economy and Competitiveness.</u></p> <p>In short, the procedure was excessively bureaucratic and not conducive to business.</p>
Highly Qualified Professionals	<p>The system set up under the LOEX and RLOEX was a transposition of the Blue Card Directive. The Spanish legislator opted <u>not to establish a more favourable parallel national system</u>, as permitted by the directive.</p> <p>Because it only contains the provisions of the directive, the system <u>has not been as effective in attracting talent as expected</u>, as has occurred with the Community instrument.</p> <p>The main problems detected were:</p> <p>Use of an <u>excessively rigid definition</u> of highly qualified professional that required higher education qualifications or, exceptionally, accreditation of at least <u>five years of professional experience</u>, which posed serious obstacles to the hiring of foreign specialists.</p> <p>The establishment of <u>excessively high wage limits</u>: 1.5 times the average wage, which was linked by a Circular to the average wage of the sector; this posed obstacles to hiring, particularly in the case of young graduates.</p> <p>Application of the <u>National Employment Situation</u> was widespread with few exceptions, even though the Blue Card Directive did not require this extreme.</p> <p>There was no provision for the <u>corporate group concept</u>.</p> <p>Processing was generally the responsibility of the Immigration Office, except where large companies (calculated by turnover, number of workers, investment received, etc.) were involved. These cases were processed by the UGE and the National Employment Situation was not applied.</p> <p>A <u>regulatory list of sectors considered strategic</u> was drawn up, which made it <u>impossible to adapt</u> to the Spanish economic context.</p> <p>And, as mentioned in the case of entrepreneurs, <u>status changes were difficult</u>, especially in the case of students.</p>
Researchers	<p>The multiplicity of researcher concepts in the LOEX not only undermines the consistency required of all legal systems but also introduces a strong protectionist element;</p>

	<p>moreover, these concepts are oriented towards scientific research in higher education or other research institutions. This poses certain <u>obstacles</u> to the <u>recruitment of researchers by companies</u> as professionals to form part of their teams.</p> <p>In conjunction with the above, the introduction of a <u>host agreement</u> as a mandatory instrument for establishing the relationship between the researcher and the research body and the <u>requirement of prior authorisation for the hiring of foreign researchers</u> were bureaucratic burdens, especially in the case of companies.</p> <p>In addition, despite the fact that the articles of the Researchers Directive allowed for a single permit, the Spanish regulations required a dual permit: one for residence and one for work.</p>
<p>Intra-corporate transfers</p>	<p>The regulations were very restrictive.</p> <p>Under this system, training transfers are excluded and its application to independent professionals is prohibited.</p> <p>The transferred staff must have been engaged in the transfer activity for at least one year and have been with the company for at least nine months. The notion of corporate group could not be considered.</p> <p>The applicant had to be the company ordering the transfer, which posed problems determining the legal representative and with foreign notary public systems, for example. In all events, the foreign national had to be outside the country and apply for a visa.</p> <p>As a general rule, the National Employment Situation applied and they were processed by the Immigration Offices. As an exception to these two elements, transfers in companies that meet the requirements of business turnover, numbers of employees or volume of foreign investment were handled by the UGE; the National Employment Situation also did not apply.</p> <p>The company had to be established in Spain.</p> <p>Permits are limited by geographical scope and to a specific sector.</p>

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### III. THE NEW MODEL OF INTERNATIONAL MOBILITY INTRODUCED BY *LEY 14/2013: A BOOST TO SPANISH COMPETITIVENESS*

The comparative analysis of the Spanish legal system concluded that, despite the introduction of certain measures to attract qualified migration, it had major shortcomings and did not attach sufficient importance to the role of international mobility in the economy, employment and the consolidation of companies in the international arena. As a result, the transformation of the international mobility system was included in the National Reform Programme for 2013.

In this context, Section 2 of Title V of *Ley 14/2013* was adopted with the purpose of facilitating the entry and/or stay in Spain of (i) investors, (ii) entrepreneurs, (iii) workers engaged in intra-corporate transfers, (iv) researchers and (v) highly qualified professionals, together with their family units, through a flexible and fast procedure with a single authority.

The Economic and Social Council,<sup>10</sup> in the opinion it issued on the draft *Ley 14/2013* (prescriptive opinion under Article 7.1.1. of the Economic and Social Council Act – *Ley 21/1991*, of 17 June) revealed a reluctance to regulate this area in specific legislation distinct from the general immigration legislation. Nonetheless, the legislator considered it appropriate because international mobility is a special exception that must be kept separate from the general regulations and has its own idiosyncrasies, as evidenced by the fact that it is regulated in specific regulations in most of Spain's neighbouring countries.

The possibility of modifying the general immigration legislation (*Ley Orgánica 4/2000*) was considered; however, it was thought more appropriate to establish an ad hoc regulation in an economic law. Hence, the new schema was included in *Ley 14/2013*, whose Article 1 can be seen as a declaration of intent:

*This Act seeks to support entrepreneurs and entrepreneurial activity, foster their development, growth and internationalisation, and promote entrepreneurial culture and an environment favourable to economic activity, both in the initial period of business start-up and in its subsequent development, growth and internationalisation.*

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<sup>10</sup> Decision 6/2013, issued at the ordinary plenary session held on 10 June.

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The legal basis for this regulation is the Immigration Act (*Ley Orgánica de extranjería*), whose Article 1.2 states that:

*The provisions of this Act shall be construed, in any event, as subject to the provisions of special laws and the international treaties to which Spain is a party.*

A description of the new model now follows. Firstly, we will analyse each of the categories of foreign nationals within its scope of application – subjective vision; we will then examine the flexibility measures introduced by the system – objective vision; subsequently, we will analyse the safeguards and strengthening of controls – restrictive vision; and, finally, we will cite the public actors involved in the implementation of the new international mobility model – corporate vision, which will give us an overview of the importance of a coordinated implementation.

## **1. Categories of foreign nationals to whom the new international mobility model applies**

The new legislation covers five categories of individual for whom the legislation facilitates entry and/or stay in Spanish territory on grounds of economic interest. It should be noted, however, that the new legislation does not change the rules of access to nationality or long-term residence and that individuals covered by this regulation must, as explained later, meet the general requirements for stay and residence of foreign nationals in Spain.

### **1.1. Investors**

An investor is any foreign national who makes a *significant investment* in Spain, either directly (as an individual) or through a legal person that (i) is domiciled in a territory that does not have the consideration of a tax haven and (ii) whenever the beneficiary has (ii.1) the majority of voting rights in it, and (ii.2) the right to appoint or dismiss the majority of the members of its Board of Directors.



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*Significant investment* means any of the following:

- a) The investment, within a period not exceeding 60 days prior to the filing of the application, of at least:
- EUR 2 (two) million in Spanish public debt securities.
  - EUR 1 (one) million in stocks or holdings in Spanish companies.
  - EUR 1 (one) million in bank deposits held with Spanish financial institutions.

The inclusion of this concept is justified by the need to attract foreign capital to Spain, thereby improving expectations of economic growth.

- b) The purchase, free of all liens and encumbrances, of property in Spain of a value equal to or greater than EUR 500,000 (five hundred thousand); any investment exceeding this amount may be subject to liens or encumbrances.

This concept was introduced with the aim of strengthening quality residential tourism from outside Europe (approximately 11% of Spain's GDP comes from tourism<sup>11</sup>) and of deseasonalising it in a way that can attract investment and create new jobs.

- c) The launch of a business project intended to be carried out in Spain that is accredited as being in the general interest, in which case it will be assessed for compliance with any of the following conditions:
- Job creation.
  - Relevant socio-economic impact in the geographical area in which the activity will be carried out.
  - Significant contribution to scientific and technological innovation.

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<sup>11</sup> The relevance of tourism in Spain, as measured by final tourism demand, stood at 10.9% of GDP, according to the latest Tourism Satellite Account of Spain compiled by the National Statistical Institute (2012).

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The purpose of this concept is to attract business projects to create jobs and wealth.

The initial assessment of the project (*ad casum*) will be carried out, in principle, by the Economic and Trade Office of the geographical region in which the investor files the visa application, which must be accepted. However, the maintenance of the investment (a requirement for obtaining the investor residence permit) will be assessed by the Directorate General for International Trade and Investment (hereinafter, DGCOMINVER).

### 1.2. Entrepreneurs

This category includes foreign nationals who come to Spain to carry out *entrepreneurial business*, meaning an innovative activity of special economic interest to Spain. In practice, for visas, this assessment is made by the Economic and Trade Office of the geographical region in which the entrepreneur files the initial visa application and, for permits, by the DGCOMINVER, taking into account:

- In particular and as a matter of priority, the creation of jobs in Spain.
- The professional profile of the applicant.
- The business plan.
- The added value for the Spanish economy, innovation or investment opportunities.

The inclusion of this concept was necessary because, as the OECD pointed out, foreign nationals have a strong entrepreneurial potential and it is essential to promote business activities that bring added value and competitiveness to Spain.

### 1.3. Highly qualified professionals

This category covers the following groups of professionals:

- a) Executive or highly qualified staff of large enterprises or corporate groups<sup>12</sup> or small and medium-sized enterprises (SMEs, hereafter) in strategic sectors.

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<sup>12</sup> The terms *large company* and *corporate group* are used to mean those that meet any of the following characteristics: (i) average workforce in the three months immediately prior to the filing of the

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b) Executive or highly qualified staff that form part of a business project with any of the following conditions:

- Maintenance of employment.
- Significant increase in the creation of direct jobs by the hiring company.
- Significant increase in the creation of jobs in the business sector or geographical area in which the business activity is to be carried out.
- Extraordinary investment with relevant socio-economic impact in the geographical area in which the activity is to be performed.
- Reasons of general interest for the trade and investment policy of Spain.
- Significant contribution to scientific and/or technological innovation.

c) Graduates, postgraduates of universities and reputable business schools.

Given the changing pace of the economy and models of production today, the general interest of the business project or the consideration of a sector as strategic will be assessed by the DGCOMINVER on a case-by-case basis.

#### 1.4. Researchers

This category covers foreigners intending to enter and/or stay in Spain to conduct training, research, development and innovation activities in public or private entities. In particular, researchers are those who:

a) Are defined as such under the provisions of the Science, Technology, and Innovation Act (*Ley 14/2011*) of 1 June (Article 13).

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application totalling more than 250 workers in Spain, registered under the applicable social security system; (ii) annual net turnover in Spain of over EUR 50 million; or equity or net worth in Spain of over EUR 43 million; (iii) average gross annual investment from abroad of not less than EUR 1 million in the three years immediately prior to the filing of the application, or (iv) companies with an investment stock value or position in excess of EUR 3 million, according to the latest data from the Register of Foreign Investment of the Ministry of Economy and Competitiveness.

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- b) Scientific and technical staff who conduct scientific research, development and technological innovation work at business undertakings or R&D+i centres established in Spain.
  - c) Researchers subject to an agreement with public or private research agencies, under the conditions set out in regulations.
  - d) Teaching staff hired by universities, centres or institutions of higher education and research, or business schools established in Spain, in accordance with the criteria set out in regulations.

Clearly, research staff are a crucial piece of the puzzle in an economy where knowledge is of utmost relevance. The introduction of this new concept is intended to attract research talent to put Spain at the forefront of R&D+i.

#### 1.5. Professionals on intra-corporate transfers

This category covers foreign nationals who transfer to Spain within the context of a working or professional relationship, or for professional training, with a company or corporate group established in Spain or another country, provided that they prove:

- a) The existence of a real business activity.
- b) Higher education qualification or equivalent, or, where applicable, a minimum of 3 years' professional experience.
- c) The existence of a prior and continuous professional or employment relationship over 3 months with one or more of the group companies.
- d) Documentation of the company accrediting the transfer.

There is also the possibility of carrying out collective processing of permits for large companies or corporate groups or SMEs in strategic sectors.

The inclusion of this concept is a direct consequence of the existing business internationalisation. Spanish companies are doing more and more business abroad and were already demanding a regulatory framework that would contribute to their internationalisation and not generate obstacles with unnecessary red tape.

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## 2. Flexibility mechanisms

The system is characterised by introducing important flexibility mechanisms to facilitate the entry and residence in Spain of “*qualified*” foreign nationals. There now follows a description of some of these mechanisms, distinguishing between those specific to a given category and those that apply universally.

### 2.1. Flexibility mechanisms by category

Each of the categories described lists a series of flexibility mechanisms, set out in the following table:

	<b>Flexibility mechanisms</b>	<b>Key points</b>
<b>Investors</b>	<ul style="list-style-type: none"> <li>- Can apply for an <u>investor residence visa</u>, which is sufficient for residing in Spain for at least <u>a year</u>.</li> <li>- Provided that they prove that they have maintained the investment, they may request an <u>investor residence permit</u>, which is valid throughout national territory. This permit has a validity period of <u>two years after which time it may be renewed</u>.</li> </ul>	For obtaining the permit, the obligation of effective residence has been made more flexible and it is now sufficient to have travelled to Spain at least once during his or her authorised residence period.
<b>Entrepreneurs</b>	<ul style="list-style-type: none"> <li>- Can apply for a one-year <u>residence visa</u>, with the sole or main purpose of making the necessary arrangements prior to starting up the business.</li> <li>- After this year, if they can prove that the business has been started up, entrepreneurs may apply for a <u>residence permit for entrepreneurs</u> without having to apply for a visa or the previous minimum stay period. This permit has a validity period of <u>two years after which time it may be renewed</u>.</li> <li>- Any foreign national seeking entry to or residence in Spain to start up a business activity may obtain a <u>business residence permit</u>. This permit has a validity period of <u>two years after which time it may be renewed</u>.</li> </ul>	<ul style="list-style-type: none"> <li>- Entrepreneurs may apply for a residence permit regardless of whether or not they are physically in Spain.</li> <li>- The case-by-case analysis of applications conducted by the SEC will ensure consideration of the peculiarities and specific features of each project.</li> </ul>
<b>Highly Qualified Professionals</b>	The companies concerned may request a <u>residence permit for highly qualified professionals</u> for the duration of the contract period.	Not only have the conditions of the residence permit been flexibilised, but so too has the concept of highly qualified professionals, which now caters for the needs of export companies and the internationalisation of the economy.
<b>Researchers</b>	<p>Can apply for <u>residence permits for training or research</u>.</p> <p>Residence visas have a duration of <u>one year</u> and permits for <u>two years, after which time they can be renewed</u>.</p>	The entry of researchers has been made more flexible in tune with the need to attract talent for R&D+i.
<b>Workers engaged in intra-corporate transfers</b>	<ul style="list-style-type: none"> <li>- Can apply for <u>residence permits and visas for intra-corporate transfer</u>.</li> <li>- Possibility of collective processing.</li> </ul>	<ul style="list-style-type: none"> <li>- In high demand from the business sector.</li> <li>- Facilitates the transfer of staff required for proper business development.</li> </ul>

It is clear from the above that each of the entry, stay or residence in Spain for economic reasons of the categories covered under Section 2 of Title V of *Ley 14/2013* have been made more flexible.

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## 2.2. Flexibility mechanisms applicable to all categories

Without prejudice to the flexibility measures laid down for each of the categories mentioned in the section above, *Ley 14/2013* introduces a paradigm shift in a general attempt to reduce the dysfunctions of the previous legislation which, as already noted, were diagnosed when the Spanish model was evaluated.

For example, *Ley 14/2013* introduces flexibility mechanisms that can be generalised to any of the categories within its scope of application, which include:

a) Material flexibility mechanisms:

- The National Employment Situation (job market test) is not taken into account in residence permit decisions.
- The national validity of residence permits is generalised.
- Foreign nationals holding visas do not need to obtain an Identity Card for Foreign Nationals.
- The simultaneous application for a permit (for residence and work) by family members is permitted.

One of the most interesting flexibility mechanisms introduced by the new legislation is the possibility that the spouse and any children under the age of 18 or those older than 18 who are objectively incapable of providing for themselves for health reasons can apply jointly and simultaneously (or, if applicable, successively) for a permit or, if applicable, a visa, provided that they meet the general requirements for stay or residence in Spain.

- It allows for the possibility of making simple status changes between different types of permits when the foreign national already legally resides in Spain. Particularly significant are the status changes between students of business schools and entrepreneurs.

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b) Formal flexibility mechanisms:

- Residence permits will be processed under the “*single procedure*” provided for in Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State. In other words, the permit allows foreign nationals to reside and work in Spain.
- Processing is expedited. This is achieved by:

i) Reducing processing times:

- Visa applications must be processed within 10 working days, save a few exceptions.
- Residence permits must be processed within 20 days, after which time positive silence comes into effect.

Previously, the average processing time for residence permits was 6 months.

- ii) Introduction of the “*one-stop shop*” mechanism, through which the application can be filed at any public registry in Spain.
- iii) Centralised processing of residence permits at a specialist unit, the UGE.

- Procedures relating to visas and residence permits can be carried out through a representative.

All of the above reveals the enormous effort made through *Ley 14/2013* to increase the flexibility of procedures in a bid to attract talent and foreign investment to Spain.

For a better understanding of the profound change introduced by the new model, this report is accompanied by an **Annex** comparing the requirements of the Rights and Freedoms of Foreign Nationals Act (*Ley Orgánica 4/2000*), of 11 January, and its regulations, and *Ley 14/2013*.



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### 3. Strengthening of control and safeguards

Clearly, the introduction of any qualified migration system to facilitate the entry and residence in Spain of certain individuals must have sufficient security mechanisms since many sensitive issues come into play (e.g. law enforcement, border control, integration of the foreign-born population, situation of the Spanish economy and employment, etc.).

In this context, several mechanisms have been set up to ensure that the process takes place without in any way affecting the security that the system should ensure.

The most relevant of these mechanisms now follow:

a) All individuals opting for application of the provisions of Section 2 of Title V of *Ley 14/2013* must meet the general requirements for stay and residence of foreign nationals in Spain.

- Requirements relating to *security*. *Ley 14/2013* has strengthened security safeguards:

i) Compliance with the Schengen Borders Code and/or the Visa Code is required.

Therefore, the foreign national must not be listed as rejectable in the Schengen Area.

ii) They should not be in Spain illegally.

This requirement must be assessed carefully, since one of the flexibility mechanisms proposed by the Act is the possibility of applying for permits from Spain. However, the foreign national must be legally in the country; otherwise, the application will be denied and the individual will have to leave Spain before making any application.

iii) They should not have a criminal record in Spain or in the countries where they have lived for the past five years, for offences under Spanish law.

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- *Economic* requirements.
    - i) They must have sufficient resources for themselves and for the members of their family during their period of residence in Spain so that they do not become a burden on Spain's welfare system.
    - ii) They must have a public or private health insurance policy.
  - *Formal* requirements.
    - i) They must be over the age of 18 years.
    - ii) They are required to pay the visa or permit processing fee.

- b) Express application of all regulations concerning *good business practice*.

The international mobility model introduced by *Ley 14/2013* takes into account good business practice in the framework of the global economy. Thus, (i) it penalises companies domiciled in tax havens, i.e. for application of the "investor" category, see earlier, (ii) it explicitly refers to compliance by candidates with the Money Laundering and Terrorism Act (*Ley 10/2010*), of 28 April, and (iii) it requires fulfilment of the applicable tax and Social security commitments (e.g. to obtain or extend a residence permit).

- c) Intervention of the *General Directorate of Police* in the process.

In all events, and despite the impetus to the attraction of capital and talent, important aspects relating to the need to ensure security in flows of people have not been overlooked in any way. In this context, the diplomatic missions and consular posts, upon receiving residence visa applications, are required to make the relevant prior queries to the Directorate General of Police to determine whether the applicant poses a security risk.

#### **4. Agents involved in the implementation of the new international mobility model**

In accordance with the above, and taking into account the various issues affected by the international mobility model (employment, economy, security, foreign affairs, etc.), a considerable degree of coordination and involvement of the different ministries with

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powers in these areas is required to ensure successful implementation of the new legislation.

The legislation was promoted by the Economic Office of the President of the Government. The implementation of the international mobility process involved:

- The Ministry of Employment and Social Security, as coordinator, which plays a key role in the process and to which the UGE reports through the Secretariat General for Immigration and Emigration.
- The Ministry of Foreign Affairs and Co-operation, which is responsible for matters relating to the awarding of visas by the diplomatic missions and consular posts of Spain abroad.
- The Ministry of the Interior, which coordinates all security-related aspects from the perspective of public order and border control.
- The Ministry of Economy and Competitiveness, which plays a key role in the assessment of investments and projects through the Directorate General for International Trade and Investment (DGCOMINVER) and the Economic and Trade Offices.

All of these actors are involved in a joint task in which, as explained above, requires coordination and the sharing of the operational capacity of the system.

#### **IV. MECHANISMS OF IMPLEMENTATION OF THE NEW INTERNATIONAL MOBILITY MODEL**

Implementation of Section 2 of Title V of *Ley 14/2013*, insofar as it introduces a new model of international mobility, has required various implementation measures, some of which were required by the legislation itself, such as establishing the amount of the fees payable by applicants for permits within its scope of application (Article 62), and others as a means to increase its effectiveness (i.e. measures to provide information and support to potential beneficiaries).

This section will describe these mechanisms in greater detail.

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## 1. Ministerial order setting fees in the context of international mobility

Under Article 62 of *Ley 14/2013*, one of the general requirements for stay or residence in Spain is that applicants must pay the applicable rate for the processing of the administrative residence permits for international mobility.

The payment of a fee for this administrative service is consistent with the provisions of the Rights and Freedoms of Foreign Nationals Act (*Ley Orgánica 4/2000*), of 11 January, which also regulates the payment of rates for the handling of administrative permits and the processing of visa applications.

These fees are justified by the fact that the provision of this service represents a cost for the Spanish government, with an impact on public spending. Thus, in accordance with the principles of equity and equivalence of the tax system and the goal of containment of the tax burden, the direct beneficiaries of the service must bear this cost.

In accordance with the above, and on the basis of the authorisation contained in paragraph 4 of the Tenth Final Provision of *Ley 14/2013*, Order ESSI/1571/2014, of 29 August 2014, establishes the amount of the processing fees for administrative permits relating to international mobility, which were set at the following values, in accordance with the principle of equivalence:

Type of international mobility permit	Fee amount in EUR (€)
Initial residence permit.....	70.40
Renewed residence permit.....	75.60

This Order therefore implements Section 2 of Title V of *Ley 14/2013*, regulating the amounts of the fees provided for in Article 62.3 g) of the same; this amount will increase at the beginning of each financial year in accordance with the annual State Budget legislation.

## 2. Measures to facilitate implementation of the international mobility system among potential beneficiaries

Given the innovative nature of the new system and the international characteristics of its addressees, various actions must be carried out to facilitate information on procedures to

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the interested parties for application of the provisions of Section 2 of Title V of *Ley 14/2013*.

These actions are centralised in different information platforms, which include the following:

- A website has been set up for the Residence Programme for Investors and Entrepreneurs (*Programa de Residencia para Inversores y Emprendedores*, PRIE) (<http://prie.comercio.es/es>) by the State Secretariat for Trade with the joint participation of the ministries of Employment and Social Security, Foreign Affairs and Co-operation and Economy and Competitiveness.

The website provides detailed information in several languages – currently, Spanish, Portuguese, Russian and Chinese – on (i) general aspects of the PRIE and (ii) issues specific to each category – investors, entrepreneurs, highly qualified staff, researchers and intra-corporate transfers – on:

- Who can apply for visas and/or permits.
- How the application can be made, depending on whether the foreign national is already residing in Spain or if he/she currently resides outside the country.
- Where each type of document can be requested (i.e. visas from the Spanish Consulate, permits from the UGE, etc.).
- Which documents are required, both (i) general (i.e. passport, police check, accreditation of financial means, etc.) and, (ii) for their particular case (i.e. depending on each case, the documents certifying compliance with the requirements of the applicable category: property title deed, supporting documentation from the applicant company) copy of the employment contract, degree or academic qualification certificate, etc.).
- The site indicates whether a preliminary report is required before applying for the visa or permit, and, if applicable, (i) where it must be obtained (e.g. for visas, this report is drafted by the Economic and Trade Office of Spain while,

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for permits, the DGCOMINVER is the agency responsible) and (ii) the characteristics of this report.

This website is an information hub for interested persons seeking an overview of the requirements that they must meet and the necessary procedures.

- Likewise, on the website of the Secretariat General for Immigration and Emigration (<http://extranjeros.empleo.gob.es/es/>):

- The official forms for initiating the procedures regulated by *Ley 14/2013* are available for download, namely:

- i) Application form for residence permit holders (MI-T).

- ii) Application form for Foreign National Identity Card (MI-TIE).

- iii) Application form for family permit (MI-F).

To help applicants to fill out these forms, they have been translated into English, French, German, Russian, Chinese and Arabic for informational purposes.

- There is a specific UGE section that:

- iv) Provides information leaflets in Spanish and English on each of the categories set out in *Ley 14/2013*. These contain practical general information for interested parties.

- v) Two e-mail addresses have been set up for queries:

- [movilidad.internacional@meys.es](mailto:movilidad.internacional@meys.es).

- [unidadgrandesempresas@meys.es](mailto:unidadgrandesempresas@meys.es).

- vi) A system has been set up for requesting appointments with the UGE.

- The website of the Directorate General for Trade of the Ministry of Economy and Competitiveness (<http://www.comercio.gob.es/es>) offers information on the PRIE and, in particular, on the actions carried out by the DGCOMINVER and the

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Economic and Trade Offices of Spain during the process of obtaining visas and/or residence permits for investors, entrepreneurs and highly qualified staff.

The website has explanatory leaflets on each category for interested parties. It is also possible to obtain online access to the application form for the DGCOMINVER report and there is an e-mail address to which it can be sent, along with any relevant queries ([informes.movilidad@comercio.mineco.es](mailto:informes.movilidad@comercio.mineco.es)).

- The Ministry of Foreign Affairs and Co-operation also provides specialised information on visas and residence permits within the scope of *Ley 14/2013* on its website ([http://www.exteriores.gob.es/.](http://www.exteriores.gob.es/))

In short, the ministries involved have provided the potential beneficiaries of the international mobility system with the information they need to apply, essentially through information leaflets and application forms; they have also allowed the potential beneficiaries to contact with individuals who can provide the information required in each case through e-mail addresses. All of this is offered in different languages.

### **3. Master plan for raising awareness of the new international mobility system**

In addition to the measures taken to facilitate the implementation of the new model in each case, as analysed in the previous section, general government is working hard to raise awareness of the new international mobility system, given that the various agents of the international community must be aware of the new possibilities if it is to be a success.

The awareness plan has essentially addressed *three types of agent*:

- *Agencies responsible for implementation of the new system*
  - (i) The Ministry of Foreign Affairs and Co-operation, (ii) the DGCOMINVER, (iii) the Secretariat General of Immigration and Emigration (iv) and the Ministry of the Interior have played an important role in raising awareness of the system within their own implementation networks, composed essentially of consulates, trade offices, immigration offices and police headquarters since they must be familiar with the new legislation and forward any cases to the UGE for processing.

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Clearly, these centres, which are pivotal to the system, must be mindful of its limits and opportunities, and be capable of conveying these to the potential beneficiaries, since successful implementation of the system depends on this.

- *Representatives of other States*

The representatives of other States must be aware of the measures being carried out in Spain for two reasons (i) firstly, so that they can inform the individuals and companies of their countries about them, and, (ii) secondly, to appreciate their advantages and be motivated to promote open models of international mobility that can benefit Spanish citizens too.

- *Centres for the attraction of investment talent*

Given that one of the main aims of the new legislation is to attract talent and investment to Spain, it seems only logical to take measures to raise awareness of the new legislation at centres for investors and entrepreneurs, which are generally visited for information on business opportunities.

These include:

- National and regional public agencies, such as Invest in Spain (ICEX España Exportación e Inversiones), Invest in Madrid, Madrid Empeñe and Barcelona Activa.
- Private institutions, including (i) representatives of the business sector – e.g. Confederación Española de Organizaciones Empresariales (CEOE), Foro Español de Expatriación (FEEX), American Business Council, etc., (ii) law firms, (iii) prestigious estate agents, (iv) consultants, (v) universities and leading business schools (e.g. IE, ESADE, IESE, ICADE, etc.).

Moreover, to promote the policy of attraction of investment and talent, the Awareness Plan has adopted a *number of approaches*, including:



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- Organisation of *national conferences*.

The first National Conference on Migration as an Element of Competitiveness took place on 13 November 2014 at headquarters of the Ministry of Employment and Social Security, which was organised by the National Contact Point for Spain in the European Migration Network.

In addition to national representatives (from the Ministry of Employment and Social Security, the ministries of Economy and Competitiveness, the Ministry of the Interior and the Ministry of Foreign Affairs and Co-operation), participants included representatives of (i) the European Commission, (ii) the National Contact Points for Germany, France, the Netherlands, Italy, Portugal and United Kingdom in the European Migration Network, (iii) the business world, through the Foro Español de Expatriación (FEEX), (iv) business schools, with the participation of the Asociación Española de Escuelas de Dirección de Empresas, and (v) ICF International, provider of services for the European Migration Network.

The Conference emphasised the importance of the Awareness Plan launched by the Secretariat General for Immigration and Emigration and the interest roused by the new regulation.

It also allowed us to draw the conclusion that there is a shared interest in making international mobility a competitive advantage, a clear argument for continuing along this line.

- Organisation of *informative events*.

The Secretariat General for Immigration and Emigration, the State Secretariat for Trade, the Ministry of the Interior and the Ministry of Foreign Affairs and Co-operation jointly organised a series of coordinated informative sessions with various public and private agents with a view to raising awareness of the legislation and explaining the flexibility it offers. One example of these include their participation in the Chair of Business Internationalisation, Diversity and Professional Development of the Universidad Pontificia de Comillas.

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- Publication of diverse *informative materials* for a wide range of publics.

The impact of the Awareness Plan can be seen by the number of Google search hits for “*Ley 14/2013 international mobility*”: despite the specific search terms used, 18,300 hits are obtained that redirect to pages on diverse forums, from official electronic sites, to business centres, law firms, blogs, immigration support organisations, sites aimed at self-employed workers, the media, etc. Nonetheless, we need to continue working to strengthen this communication.

## **V. INFLUENCE OF *LEY 14/2013* ON THE ICT DIRECTIVE**

*Ley 14/2013* predates Directive 2014/66/EU. This directive regulates permits for workers from third countries who move to a Member State in the framework of an intra-corporate transfer in the same company or corporate group. The advantage of the directive lies in the intra-EU mobility that allows these professionals to work in other Member States. Since Spain has important trade links with Latin America, it needed an open directive.

Spain eventually managed to ensure that all the key elements of the Spanish legislation were included in the directive, so the partial transposition of the latter has been formally reported to the Commission.

## **VI. THE INTERNATIONAL DIMENSION OF INTERNATIONAL MOBILITY: MOBILITY 2.0**

Spain has made a remarkable liberalisation effort with the International Mobility section of *Ley 14/2013*. This effort is of great value in itself because it promotes the entry of investment and talent. However, there is huge potential to be gained from negotiating with other countries for them to provide these same advantages to the Spanish companies and professionals established in their territory.

All of the ministries involved (Ministry of Employment and Social Security, Ministry of Foreign Affairs and Co-operation, Ministry of Economy and Competitiveness and the Ministry of the Interior) have worked together to encourage other countries to introduce this favourable treatment.

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To date, diverse actions have been carried out in this regard, including the following:

- On 10 June 2014, a memorandum of understanding was signed between Spain and Mexico to facilitate the entry and stay in the territory of investors, entrepreneurs, highly qualified professionals, researchers, professionals engaged in intra-corporate transfers and their families, for reasons of economic interest. Essentially, this memorandum seeks to ensure that the parameters on which *Ley 14/2013* is based are applied reciprocally, thereby allowing the Spaniards in these categories to obtain permits for entry, stay and residence in Mexico under the same terms as Mexicans in Spain.

It is hoped to extend the success of the initiative to countries such as Brazil.

- In October 2014, negotiations were conducted within the framework of the General Cooperation Agreement signed on 22 February 2007 between the kingdoms of Saudi Arabia and Spain to implement various cooperation measures between the two countries. The Bilateral Committee set up under the Agreement has addressed certain aspects of international mobility to allow the facilities offered by *Ley 14/2013* for qualified Saudi immigration to serve as a framework for the adoption of similar measures for Spaniards seeking qualified work in Saudi Arabia.
- Spain has taken a driving seat in similar agreements at EU level. An example of this is the country's role in the Common Agenda on Migration and Mobility between the European Union and Brazil for the purpose of including as a priority the promotion of qualified migration linked to economic growth and business internationalisation (“promoting a better business-related migration”).
- In the Ibero-American space, the Veracruz Declaration signed at the Twenty-Fourth Ibero-American Summit agreed to the following objective:

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*To instruct the Ibero-American Secretariat General (SEGIB) to study the feasibility of a voluntary Ibero-American framework convention to launch the following within the Ibero-American space:*

*o the facilitation of work experience and internships of a fixed duration with Latin American companies at any of their head offices within the Ibero-American space in order to increase the job-training opportunities for our young people; o the intra-corporate mobility of executive staff and workers o the mobility of qualified professionals and researchers o the mobility of investors and entrepreneurs.*

*This framework agreement should consider, inter alia and in accordance with each Government's wishes, the best ways of eliminating obstacles to this mobility (whether they be migratory, professional or educational, including the recognition of academic qualifications).*

- In December 2014, the Secretariat General for Immigration and Emigration organised a seminar on international mobility in Colombia in collaboration with the AECID and within the framework of the PIFTE programme. At the seminar, an analysis was conducted of Latin America's experiences in the attraction of talent, investment and foreign entrepreneurship.
- In recent years, agreements have been signed with various countries (e.g. Canada, Australia and New Zealand) to promote the mobility of young people to give them the opportunity to obtain professional and/or life experiences.

The object of these Agreements does not only include sporadic work activity (working holidays); in the case of Australia and Canada, they also included career-oriented work. Although these agreements are beyond the scope of *Ley 14/2013*, they have boosted international mobility and have raised the profile of Spain as an elite destination for qualified migration.

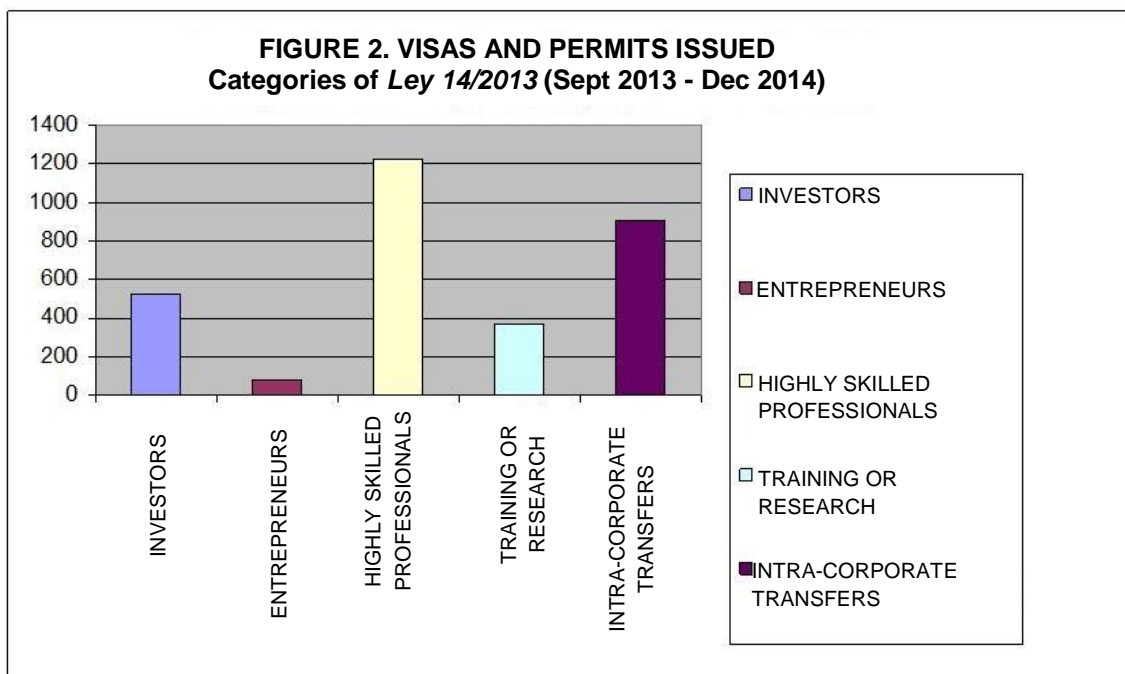
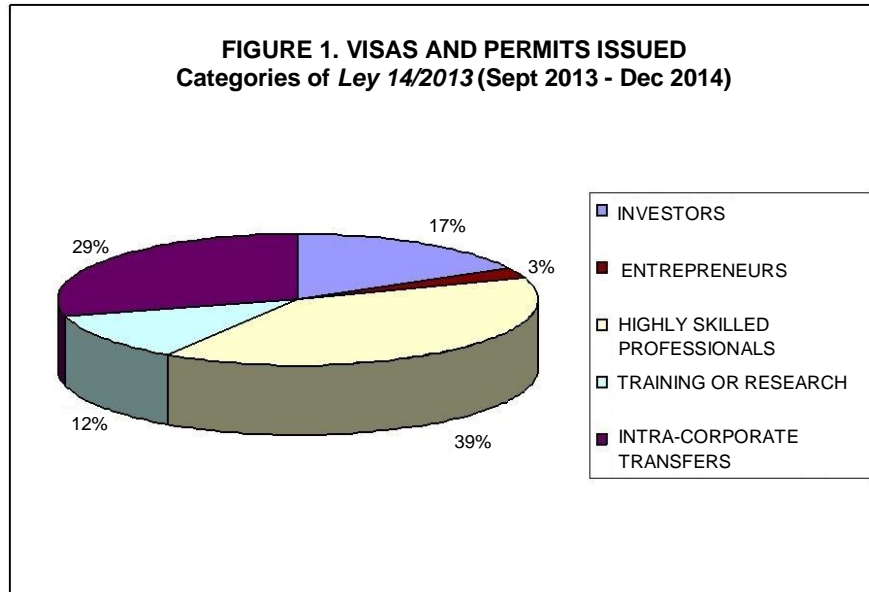
## **VII. OBJECTIVE RESULTS ONE YEAR AFTER THE ADOPTION OF *LEY 14/2013***

The data (from September 2013 to December 2014) confirm the success of the implementation of Section 2 of Title V thereof. For all categories provided for in the

legislation, 3,120 residence permit and visas were issued, broken down as follows: 531 to investors (490 in property, 29 in shares and 12 in projects in the general interest), 82 to entrepreneurs, 1,231 to highly qualified professionals, 369 to researchers and 907 to intra-corporate transfers. In addition to these visas and residence permits, a further 2,461 were issued to their families under the specific regrouping arrangements laid down in the Act. In total, taking into account family members, 5,580 visas and residence permits were issued under *Ley 14/2013* (Table 1).

<b>TABLE 1. CASES PROCESSED UNDER LEY 14/2013. VISAS AND PERMITS ISSUED (Sept 2013 - Dec 2014)</b>	
CATEGORY	Number of permits
INVESTORS	531
ENTREPRENEURS	82
HIGHLY SKILLED PROFESSIONALS	1,231
TRAINING OR RESEARCH	369
INTRA-CORPORATE TRANSFERS	907
<b>TOTAL CATEGORIES ARTICLE 61 LEY 14/2013</b>	<b>3,120</b>
Family members (Article 62.4 <i>Ley 14/2013</i> )	2,461
<b>TOTAL (categories+family members)</b>	<b>5,581</b>

Focusing our analysis on the number of visas and permits granted to the categories of foreign nationals mentioned in Article 61 of *Ley 14/2013* (disregarding family members at this point), we obtain the following information.



According to Table 1 and Figure 2, the categories with the highest numbers of visas and residence permits are: highly qualified professionals (1,231 permits), representing 39%

of the total, and intra-corporate transfers with 29% of the total (907 permits). Taken together, they accounted for 68% of the total number of visas and permits.

Table 2 compares the number of permits issued from September 2012 to September 2013 for the categories of foreign nationals linked to the attraction of talent in organisations or companies established in Spain through the admission and residency schemes provided for in the general immigration legislation (namely, residence and work permits for highly qualified professionals, blue cards; permits issued under the special researchers procedure of article 38a) of the LOEX; and residence and work permits in the framework of the transnational delivery of services) with those issued from September 2013 to September 2014 for these same categories of foreign nationals under the system of permits laid down in *Ley 14/2013*. The highly qualified professionals category has witnessed a year-on-year increase of 230% while intra-corporate transfers have increased 66% in the same period. This underlines the importance of the flexibility introduced by the new legislation for Spanish companies in these two categories, which is reflected in the dramatic increases recorded. Companies have been quick to recognise the momentum of the new law so its application has been more rapid than in other categories, such as entrepreneurs, for whom just 82 permits (3% of the total) have been issued. This points to the need to raise greater awareness of the legislation in this area.

<b>TABLE 2. NUMBER OF PERMITS ISSUED TO CATEGORIES OF FOREIGN NATIONALS LINKED TO THE ATTRACTION OF TALENT</b>			
	Sept 2012-2013 (through the permits provided for in the LOEX)	Sept 2013-2014 (through the permits provided for in <i>Ley 14/2013</i> )	% change 13-14/12-13
<b>HIGHLY QUALIFIED</b>	275	907	229,8
<b>RESEARCHERS</b>	50	183	266
<b>INTRA-CORPORATE</b>	433	720	66,3
<b>TOTAL</b>	<b>758</b>	<b>1810</b>	
<b>Source: Ministry of Employment and Social Security</b>			

With regard to the concept of training, research, development and innovation, the residence permits issued during the first 12 months after the entry into force of the Act totalled 183, compared with the 50 granted in the previous period (under Article 38a) of the LOEX), representing a year-on-year increase of 266% (Table 2).

Following this general analysis of the objective results of *Ley 14/2013* after its entry into force, we will now conduct a detailed analysis of the results for each category of foreign nationals provided for in this Act.

### **i. Investors**

Of the visas and residence permits issued between September 2013 and December 2014 under Article 61 of *Ley 14/2013* (disregarding family members), 17% were issued to foreign investors. In figures, a total of 531 visas and/or residence permits were issued, which were distributed as follows: 490 for property investments, 29 for investments in financial assets and 12 for projects in the general interest.

The value of the investments received totalled EUR 446,843,921, of which the investment from the purchase of property amounted to EUR 369,766,625 and the investment in financial assets stood at EUR 37,543,696<sup>13</sup> (Table 3). In addition to these amounts, the investment in business projects in the general interest is estimated at EUR 39.5 million.

<b>TABLE 3. TOTAL INVESTMENT</b>				
30 Sept 2013 - 31 Dec 2014				
<b>CATEGORY</b>	<b>Number</b>	<b>% total</b>	<b>AMOUNT(EUR)</b>	<b>% total</b>
<b>CAPITAL</b>	29	5.46	37.543.696	8.40
<b>PROPERTY</b>	490	92.28	369.766.625	82.75
<b>BUSINESS PROJECT</b>	12	2.26	39.533.600	8.85
<b>TOTAL</b>	531	100.00	446.843.921	100.00

#### **1.1. Property investors**

Investments in property account for 92.5% of the visas and permits issued to foreign investors.

For this analysis of the objective results of *Ley 14/2013*, a study of the distribution of investments by nationality of origin produces some interesting findings. This information has been obtained from Table 4. According to the latter, the main nationalities were Russian and Chinese, representing 68.8% of the total number of visas/residence permits issued for this category (34.5% Russian and 34.3% Chinese). Following in importance were citizens from the Ukraine (2.9%), Egypt (2.7%), Lebanon (2.2%), Venezuela (2.0%)

<sup>13</sup> Source of data: Ministry of Foreign Affairs and Co-operation

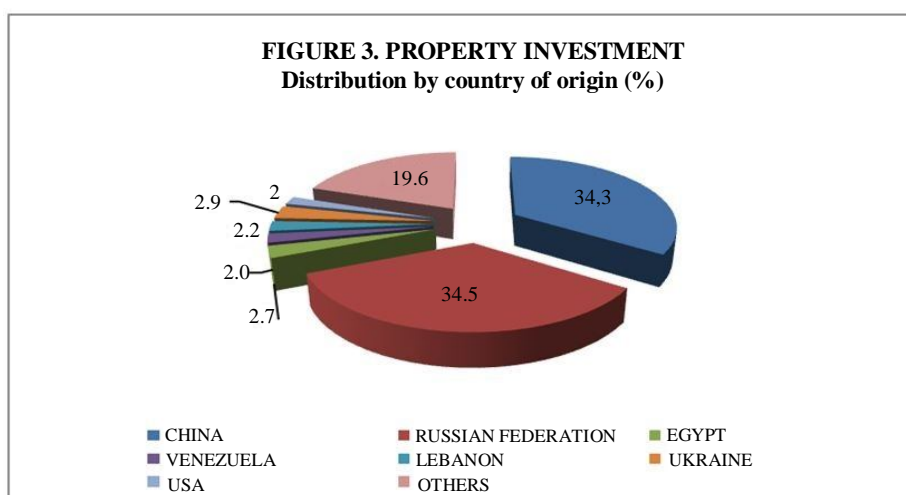


and the USA (1.8%). These seven countries of origin account for 80.4% of the total investment in property.

<b>TABLE 4. PROPERTY INVESTMENT</b>				
<b>30 Sept 2013 - 31 Dec 2014</b>				
<b>Distribution by country of origin</b>				
<b>COUNTRY OF ORIGIN</b>	<b>Number</b>	<b>% total</b>	<b>EUR</b>	<b>% total</b>
<b>RUSSIAN FEDERATION</b>	169	34.5	144,215,240	39.0
<b>CHINA</b>	168	34.3	108,318,001	29.3
<b>UKRAINE</b>	14	2.9	10,827,160	2.9
<b>EGYPT</b>	13	2.7	8,781,043	2.4
<b>LEBANON</b>	11	2.2	6,833,000	1.8
<b>VENEZUELA</b>	10	2.0	11,572,085	3.1
<b>USA</b>	9	1.8	7,209,500	1.9
<b>SUM 7 main countries</b>	<b>394</b>	<b>80.4</b>	<b>297,756,029</b>	<b>80.5</b>
<b>OTHERS</b>	96	19.6	72,010,596	19.5
<b>TOTAL</b>	<b>490</b>	<b>100.0</b>	<b>369,766,625</b>	<b>100.0</b>

*Source: Ministry of Foreign Affairs and Co-operation*

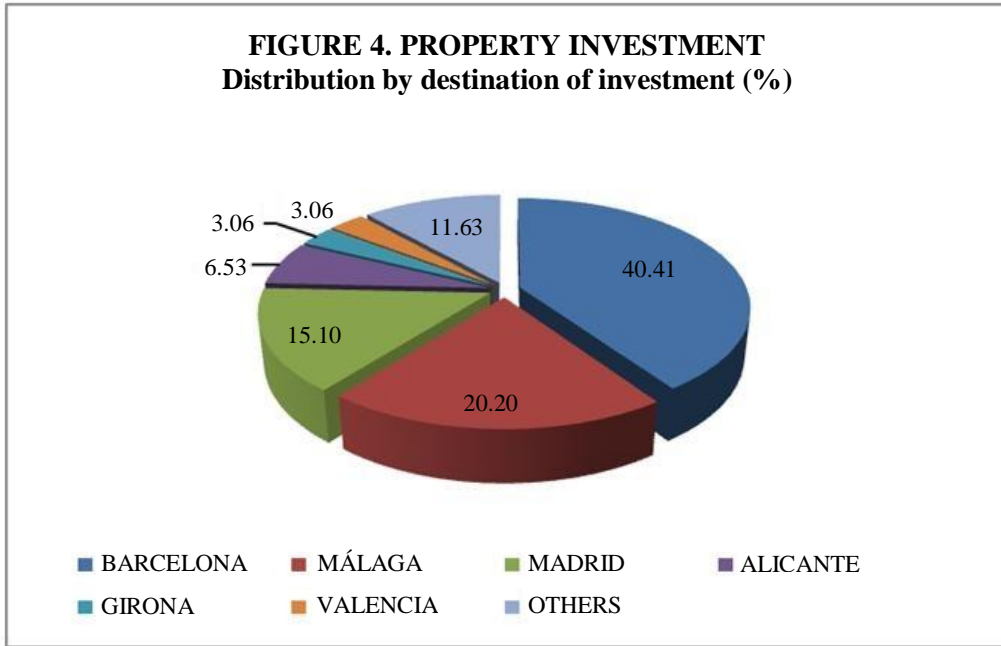
Table 4 also contains information on the amounts invested by nationality. Thus, the nationality that invested the highest amount was Russian, accounting for 39.0% of the total value of the investment (EUR 144,215,240), followed by China with 29.3% and EUR 108,318,001. Following on from these two is Venezuela, which, despite holding sixth position in terms of visas/residence permits issued, is third by amount of investment (EUR 11,572,085).



The average property investment made by Russian citizens is EUR 883,354, although 33 of the 169 residence visas/permits were issued for investments of more than EUR 1 million. Turning on China, the average property investment made by Chinese nationals is EUR 644,750, and just 6 investments were in excess of EUR 1 million. In this case, the majority of the investments ranged from EUR 500,000 to EUR 600,000. With regard to amounts, the average investment made by Venezuelan and US citizens totalled EUR 1,157,209 and EUR 801,056, respectively.

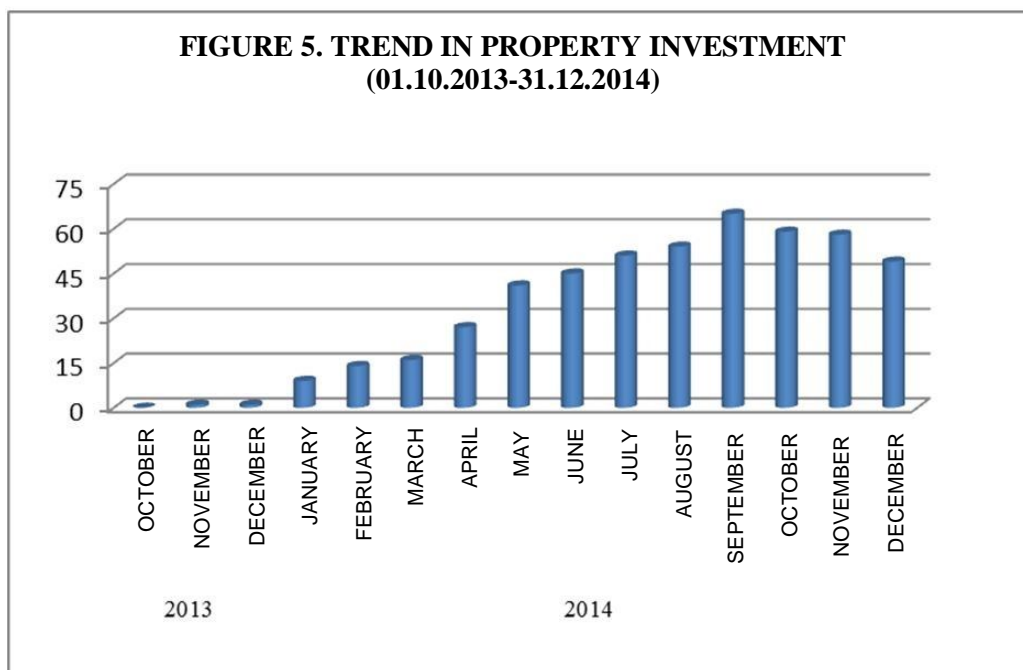
<b>TABLE 5.</b>		
<b>DISTRIBUTION BY DESTINATION OF INVESTMENT</b>		
<b>PROVINCE</b>	<b>Number</b>	<b>% total</b>
<b>BARCELONA</b>	198	40.41
<b>MÁLAGA</b>	99	20.20
<b>MADRID</b>	74	15.10
<b>ALICANTE</b>	32	6.53
<b>GIRONA</b>	15	3.06
<b>VALENCIA</b>	15	3.06
<b>OTHERS</b>	<b>57</b>	<b>11.63</b>
<b>TOTAL</b>	<b>490</b>	<b>100.00</b>
<i>Source: Ministry of Foreign Affairs and Co-operation</i>		

By destination of investments (Table 5 and Figure 4), the province of Barcelona is the main destination for foreign nationals who have bought property under this law, representing 40.41% of the total number of permits and EUR 141.4 million (38.2% of the total investment amount). Following Barcelona is the province of Malaga, representing 20.2% of the total of these permits (EUR 76.4 million and 20.7% of the total investment in property). In third place is the province of Madrid, with 15.1% of the total for these permits and EUR 54.5 million, i.e. 14,7% of the total investment in property. Taken together, these three provinces account for 75.7% of all permits for investment in property.



These figures reveal a correlation between this investment category and the Spanish tourist industry, since most of the main investment destinations are coastal towns with high numbers of foreign visitors. Therefore, it is hoped that this will contribute to deseasonalise tourism in Spain.

Figure 5 shows the trend in the number of visas issued to property investors over the past fifteen months. The chart shows that as foreign nationals have learned about the benefits of the Act and its implementation, the number of visas has gradually increased; it is expected that the issue of these visas will continue to grow in 2015.



## 1.2 Financial asset investors

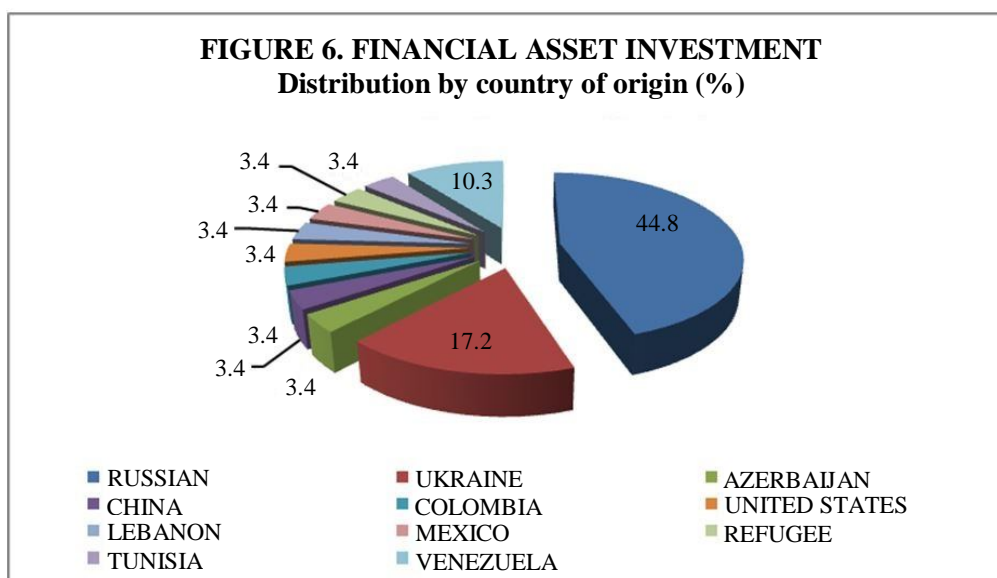
Of the total number of visas and permits issued under the specific procedure for the attraction of foreign investors, 5.5% are for financial asset investments.

Regarding the distribution of visas and permits by country of origin of the investor (Table 6 and Figure 6), 44.8% are issued to nationals of Russian origin, followed by Ukrainian nationals, with 17.2% of the total. In contrast to what we have seen with property investments, only one investment in financial assets was made from China (compared to 168 in property investment).

Table 6 also provides information on the amounts invested by nationality, which totalled €37.543.696. representing 8.4% of the total.

TABLE 6. FINANCIAL ASSET INVESTMENTS				
30 Sept 2013 - 31 Dec 2014				
Distribution by country of origin				
COUNTRY OF ORIGIN	Number	% total	EUR	% total
RUSSIAN FEDERATION	13	44.8	15,288,527	40.7
UKRAINE	5	17.2	8,260,000	22.0
AZERBAIJAN	1	3.4	1,000,000	2.7
CHINA	1	3.4	1,000,000	2.7
COLOMBIA	1	3.4	1,435,893	3.8
UNITED STATES	1	3.4	3,038,856	8.1
LEBANON	1	3.4	1,000,000	2.7
MEXICO	1	3.4	1,000,000	2.7
REFUGEE	1	3.4	1,000,000	2.7
TUNISIA	1	3.4	1,040,000	2.8
VENEZUELA	3	10.3	3,480,420	9.3
<b>TOTAL</b>	<b>29</b>	<b>100.0</b>	<b>37,543,696</b>	<b>100.0</b>

*Source: Ministry of Foreign Affairs and Co-operation*



### 1.3 Investors in projects in the general interest

Lastly, investments in projects in the general interest account for 2.3% of the total number of visas and permits issued to this category of foreign nationals.

By country of origin (Table 7), Iraq holds the most visas/permits, three out of the 12, representing 25% of the total.

<b>Table 7.</b>		
<b>30 Sept 2013 - 31 Dec 2014</b>		
<b>BUSINESS PROJECT INVESTMENTS</b>		
<b>Distribution by country of origin</b>		
<b>COUNTRY</b>	<b>Number</b>	<b>% total</b>
<b>IRAQ</b>	3	25.0
<b>EGYPT</b>	2	16.7
<b>CHINA</b>	1	8.3
<b>UNITED STATES</b>	1	8.3
<b>RUSSIAN FEDERATION</b>	1	8.3
<b>PHILIPPINES</b>	1	8.3
<b>INDIA</b>	1	8.3
<b>MEXICO</b>	1	8.3
<b>UZBEKISTAN</b>	1	8.3
<b>TOTAL</b>	<b>12</b>	<b>100.0</b>
<i>Source: Ministry of Foreign Affairs and Co-operation</i>		

As mentioned throughout the report, for investments in projects in the general interest, investors wishing to apply for a residence visa must submit a report confirming that the activity to be developed in Spain is in the general interest. These reports are prepared by the Economic and Trade Office of the country of residence of the applicant.

According to the information assessed in the preparation of these reports, we can state the following: as at 31 December 2014, the Economic and Trade Offices had issued 18 favourable reports, with an estimated investment for the next 5 years in excess of EUR 39.5 million and an estimated 374 new jobs.

## **ii. Entrepreneurs**

Of the permits issued since the entry into force of the Act (disregarding family members), 3% were for the entrepreneurs category (accounting for 82 permits in total).

As mentioned throughout the report, entrepreneurs wishing to apply for a residence permit/visa must obtain a report confirming that the entrepreneurial business to be developed in Spain is in the general interest. These reports are prepared by the Economic and Trade Offices when the interested party applies for a visa; if the applicant is already

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in Spain, the report is prepared by the Directorate General for International Trade and Investment (DGCOMINVER).

These reports contain valuable information about the foreign entrepreneur and the entrepreneurial business that they intend to carry out. They provide information, inter alia, on the prior experience of the entrepreneurs (for example, if they are studying at a business school), their country of origin, the place where they intend to carry out the business and the economic sector of this activity. We will analyse each of these elements below.

Table 8 summarises the number of reports issued by the Ministry of Economy and Competitiveness under the specific system for the attraction of foreign entrepreneurs and the estimated economic and social impact (number of new jobs, estimated investment).

<b>TABLE 8. ENTREPRENEURS. REPORTS ISSUED BY THE MINISTRY OF ECONOMY AND COMPETITIVENESS</b>				
<b>30 Sept 2013 - 31 Dec 2014</b>				
<b>Applications</b>	<b>Awarded</b>	<b>Business School</b>	<b>Estimated No. of jobs</b>	<b>Estimated investment</b>
183	91	33	2624	EUR 233.8 million

As at 31 December 2014, 91 favourable reports had been issued, of which the Directorate General for International Trade and Investment issued 73 and the network of Economic and Trade Offices issued 18. The Moscow Trade Office received the most applications and issued the most favourable reports (5), followed by those of New York and Caracas.

These reports indicate that Spain will receive a total investment of EUR 233,899,050, EUR 200 million of which are destined for the purchase and refurbishment of a hotel in Málaga. It is estimated that 2,624 jobs will be created in 5 years.

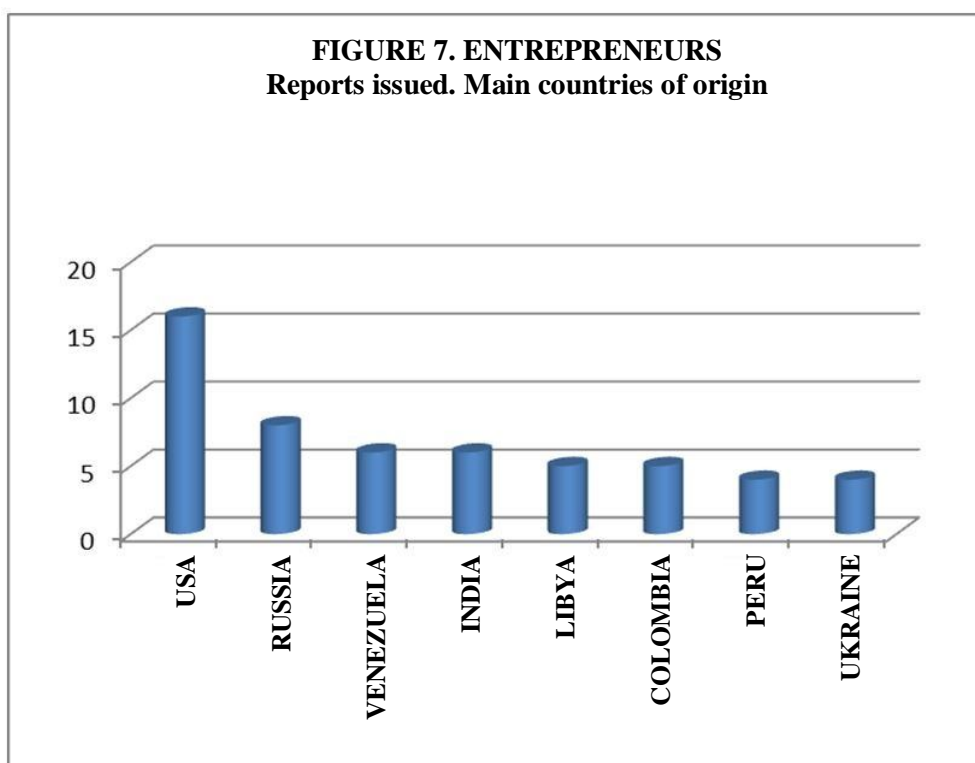
In addition, 33 of the reports issued were for students at business schools in Spain who have decided to stay on. This figure highlights the importance of business schools as a source of foreign entrepreneurship.

By country of origin (Table 9 and Figure 7), the distribution is as follows: US citizens account for 17.6% of all reports issued by the Ministry of Economy and Competitiveness, followed by Russian citizens with 8.8%, Venezuelans and Indians with 6.6%, Libyans

and Colombians with 5.5% and, lastly, Peru and Ukraine with 4.4%. These 8 countries account for 59.3% of all reports issued.

<b>TABLE 9. ENTREPRENEURS. REPORTS ISSUED BY THE MINISTRY OF ECONOMY AND COMPETITIVENESS</b>		
<b>Distribution by country of origin</b>		
<b>NATIONALITY</b>	<b>No. of reports</b>	<b>% total</b>
<b>USA</b>	16	17.6
<b>RUSSIA</b>	8	8.8
<b>VENEZUELA</b>	6	6.6
<b>INDIA</b>	6	6.6
<b>LIBYA</b>	5	5.5
<b>COLOMBIA</b>	5	5.5
<b>PERU</b>	4	4.4
<b>UKRAINE</b>	4	4.4
<b>8 leading countries</b>	<b>54</b>	<b>59.3</b>
<b>OTHER</b>	<b>37</b>	<b>40.7</b>
<b>TOTAL</b>	<b>91</b>	<b>100.0</b>

*Source: Ministry of Economy and Competitiveness*

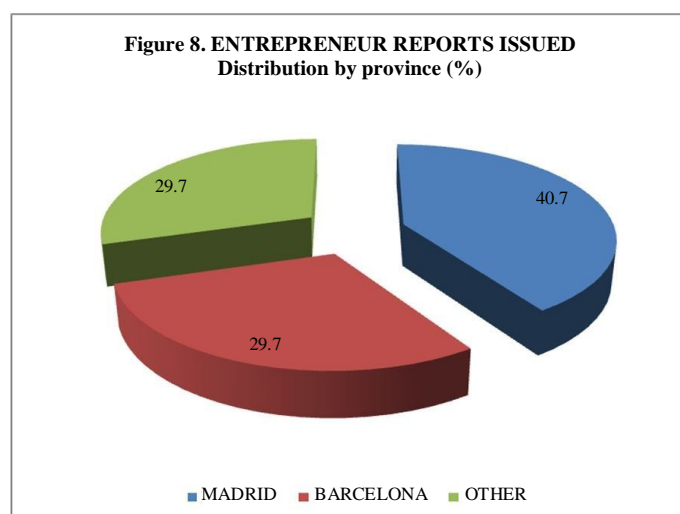




By destination province of the reports issued (Table 10 and Figure 7), Madrid and Barcelona accounted for more than two-thirds of entrepreneurial activity. Madrid was the top destination, with 37 residence permits (40.7% of the total), followed by Barcelona with 27 permits and 29.7% of the total. The other provinces accounted for the remaining 27 reports, which also represented 29.7% of the total.

<b>TABLE 10. ENTREPRENEUR REPORTS ISSUED</b>		
<b>Distribution by destination province</b>		
<b>PROVINCE</b>	<b>No. of reports</b>	<b>% total</b>
<b>MADRID</b>	37	40.7
<b>BARCELONA</b>	27	29.7
<b>OTHER</b>	27	29.7
<b>TOTAL</b>	<b>91</b>	<b>100.0</b>

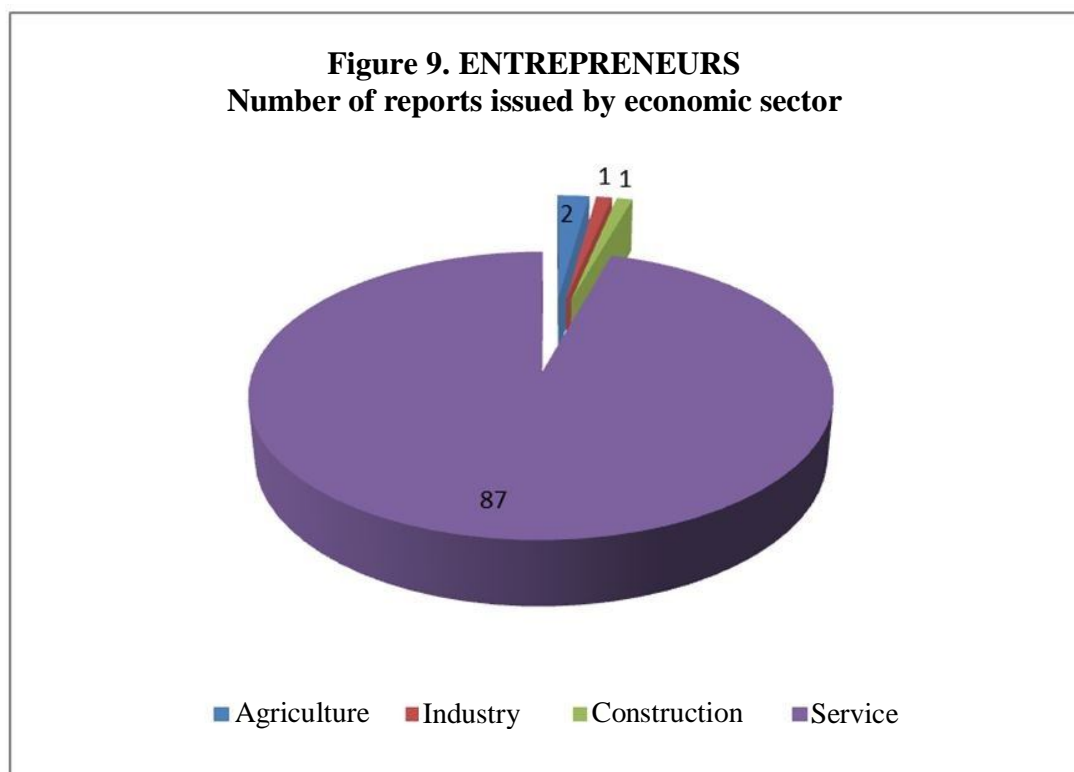
*Source: Ministry of Economy and Competitiveness*



With regard to the economic sector into which the intended entrepreneurial business was categorised, 95.6% of the reports issued were for the services sector (mainly ICT), with 2.2% for the agricultural sector and 1.1% for industry and the construction sector.

<b>TABLE 11. ENTREPRENEUR REPORTS ISSUED</b>		
<b>Distribution by economic sector</b>		
<b>Economic sector</b>	<b>No. of reports</b>	<b>% total</b>
<b>Agriculture</b>	2	2.2

<b>Industry</b>	1	1.1
<b>Construction</b>	1	1.1
<b>Service</b>	87	95.6
<b>Total</b>	91	100.0
<i>Source: Ministry of Economy and Competitiveness</i>		



The number of residence visas and permits for entrepreneurs is not very high in view of these figures and in comparison with the number of permits issued for the other categories listed in *Ley 14/2013* since its entry into force.

In this regard, the OECD<sup>14</sup> points out that immigration legislation is a necessary condition but is not sufficient to increase the rate of foreign entrepreneurship. The general regulatory framework, the tax system and access to financing are key to driving – or not driving – entrepreneurship. Despite the efforts made, there are still obstacles to starting up businesses in Spain and for entrepreneurship in general.

<sup>14</sup> Open for Business, Migrant Entrepreneurship in OECD Countries, 2010

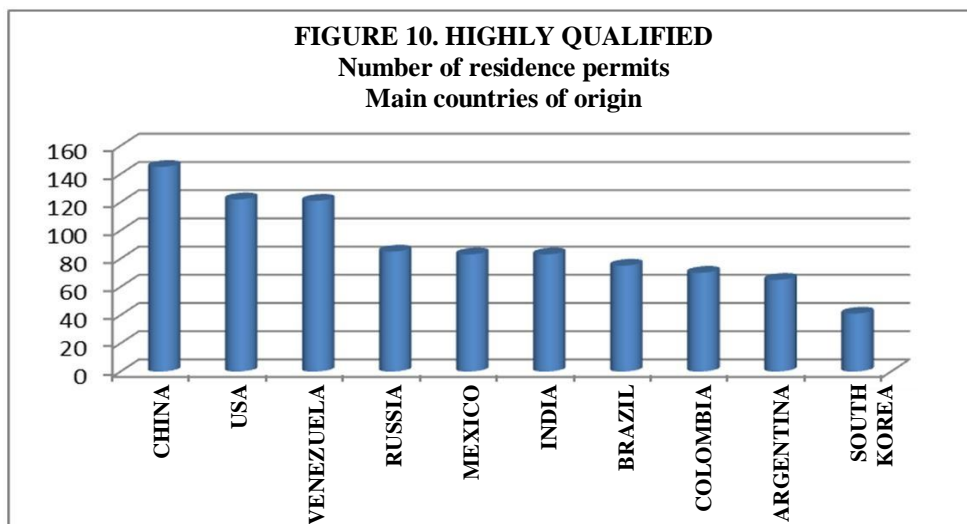
The strong concentration of these permits in Madrid and Barcelona underscores the need to further efforts to spread awareness of the legislation.

### iii. Highly qualified professionals

Of the total permits issued (disregarding family members), 39% or 1,231 were for the category of highly qualified professionals, which represents an increase of 229,8% over the number of permits issued in the previous year for the highly qualified category (blue card holder) under the general immigration legislation (275 permits).

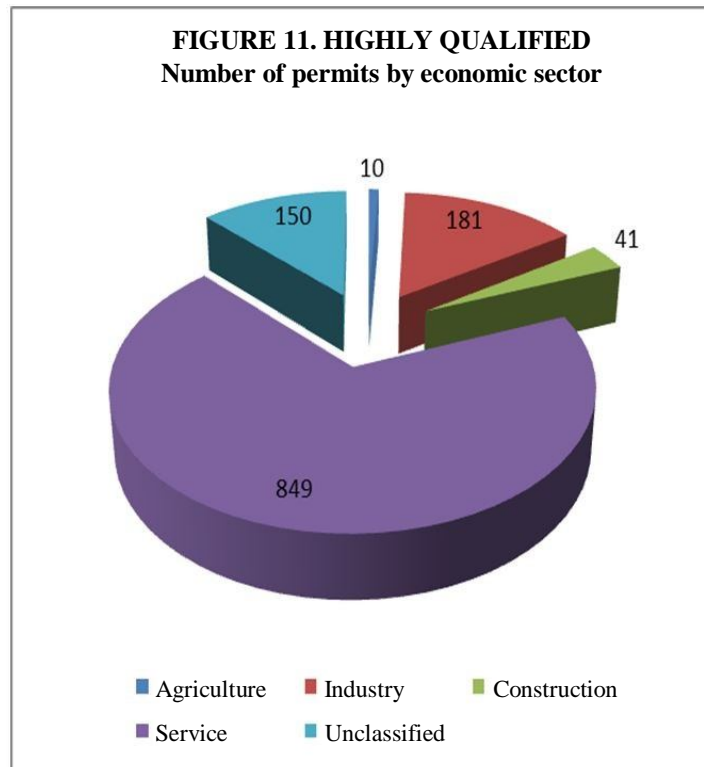
By nationality of the holder of these permits (Table 12 and Figure 10), 11.8% of all permits were issued to nationals of China, followed by those of the USA (9.9%), Venezuela (9.8%), Russia (6.9%), Mexico (6.9%), India (6.7%), Brazil (6.1%), Colombia (5.7%), Argentina (5.3%) and South Korea (3.3%). These ten countries account for 72.3% of the countries of origin of the highly qualified professionals who were issued a residence permit under the Act.

<b>TABLE 12. HIGHLY QUALIFIED</b>		
<b>Distribution by country of origin</b>		
<b>NATIONALITY</b>	<b>No. of permits</b>	<b>% total</b>
<b>CHINA</b>	145	11.8
<b>USA</b>	122	9.9
<b>VENEZUELA</b>	121	9.8
<b>RUSSIA</b>	85	6.9
<b>MEXICO</b>	83	6.9
<b>INDIA</b>	83	6.7
<b>BRAZIL</b>	75	6.1
<b>COLOMBIA</b>	70	5.7
<b>ARGENTINA</b>	65	5.3
<b>SOUTH KOREA</b>	41	3.3
<b>10 leading countries</b>	<b>890</b>	<b>72.3</b>
<b>TOTAL</b>	<b>1,231</b>	<b>100.0</b>
<i>Source: Ministry of Employment and Social Security</i>		



With regard to the intended economic activity of these professionals (Table 13 and Figure 11), 69% of permits were issued for the service sector, 14.7% for industry, 3.3% for the construction sector and 0.8% for the agricultural sector.

<b>TABLE 13. HIGHLY QUALIFIED</b>		
<b>Distribution by economic sector</b>		
<b>Economic sector</b>	<b>No. of permits</b>	<b>% total</b>
<b>Agriculture</b>	10	0.8
<b>Industry</b>	181	14.7
<b>Construction</b>	41	3.3
<b>Service</b>	849	69.0
<b>Unclassified</b>	150	12.2
<b>Total</b>	1231	100.0
<i>Source: Ministry of Employment and Social Security</i>		



Under the Act, there are two situations in which companies that fail to meet the quantitative requirements of turnover, number of employees or foreign investment may be eligible for this category if their business is considered strategic or if the project to be carried out by the company is deemed to be in the general interest. These two considerations are assessed by the Directorate General for International Trade and Investment (DGCOMINVER), which is responsible for issuing the relevant report.

The Directorate General for International Trade and Investment has issued 53 such reports since the entry into force of the Act. According to these reports, Spain will receive an estimated investment of EUR 13.5 million and some 1,835 new jobs will be created over the next five years.

**iv. Intra-corporate transfer**

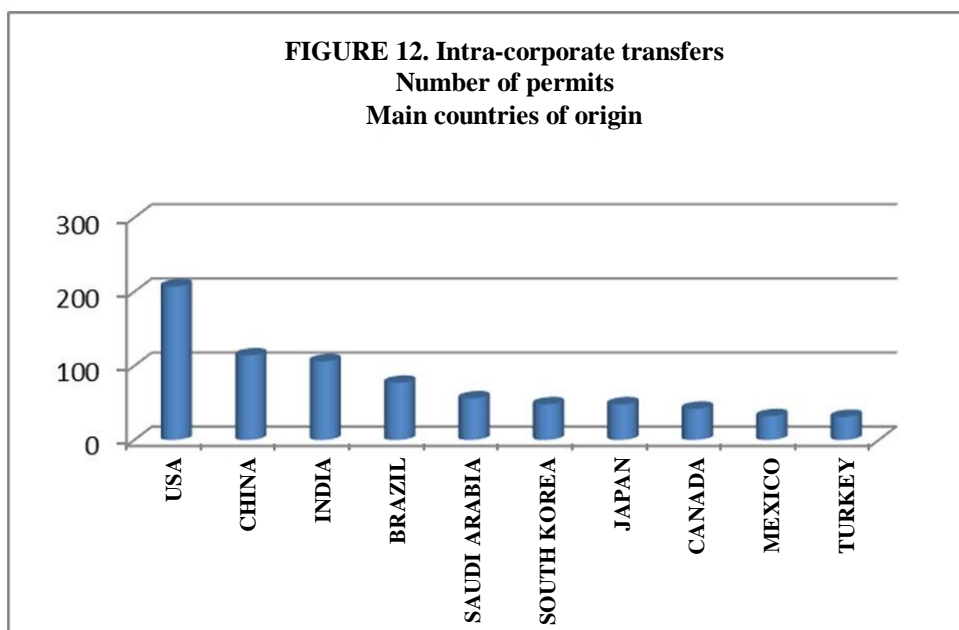
Of the 3,119 permits issued in the implementation period of *Ley 14/2013* for the categories provided for in its Article 61 (apart from family members), 907 were for intra-corporate transfers, representing 29% of all permits issued. After highly qualified professionals, this is the leading category in terms of numbers of residence permits.

Taking as a comparison the number of residence permits issued under the provision of transnational services category (provided for in the general immigration legislation) in the period immediately prior to the entry into force of the Act, the number of permits issued during the term of the Act has represented an increase of 66.3%.

With regard to the nationalities of intra-corporate transfers (Table 14 and Figure 12), the USA accounts for 22.8% of the total (207 permits), followed by China with 12.6% (114 permits), India with 11.7% (106 permits) and Brazil with 8.5% (77 permits).

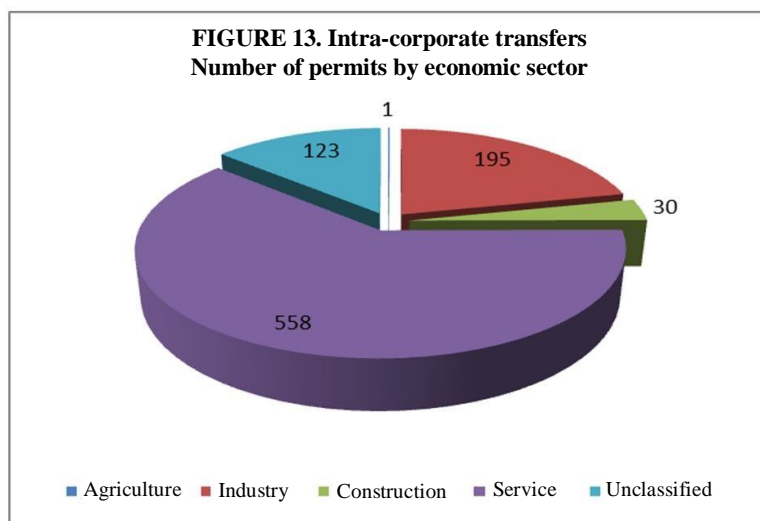
<b>TABLE 14. INTRA-CORPORATE TRANSFERS</b>		
<b>LEADING COUNTRIES</b>		
<b>NATIONALITY</b>	<b>No. of permits</b>	<b>% total</b>
<b>USA</b>	207	22.8
<b>CHINA</b>	114	12.6
<b>INDIA</b>	106	11.7
<b>BRAZIL</b>	77	8.5
<b>SAUDI ARABIA</b>	56	6.2
<b>SOUTH KOREA</b>	48	5.3
<b>JAPAN</b>	48	5.3
<b>CANADA</b>	42	4.6
<b>MEXICO</b>	32	3.5
<b>TURKEY</b>	31	3.4
<b>10 leading countries</b>	761	83.9
<b>TOTAL</b>	<b>907</b>	100.0

*Source: Ministry of Employment and Social Security*



With regard to the intended economic activity of these professionals (Table 15 and Figure 13), 61.5% of permits were issued for the service sector, 21.5% for industry, 3.3% for the construction sector and 0.1% for the agricultural sector.

<b>TABLE 15. INTRA-CORPORATE TRANSFERS</b>		
<b>ECONOMIC SECTOR</b>		
<b>Economic sector</b>	<b>No. of permits</b>	<b>% total</b>
<b>Agriculture</b>	1	0.1
<b>Industry</b>	195	21.5
<b>Construction</b>	30	3.3
<b>Service</b>	558	61.5
<b>Unclassified</b>	123	13.6
<b>Total</b>	<b>907</b>	<b>100.0</b>
<i>Source: Ministry of Employment and Social Security</i>		



#### v. Researchers

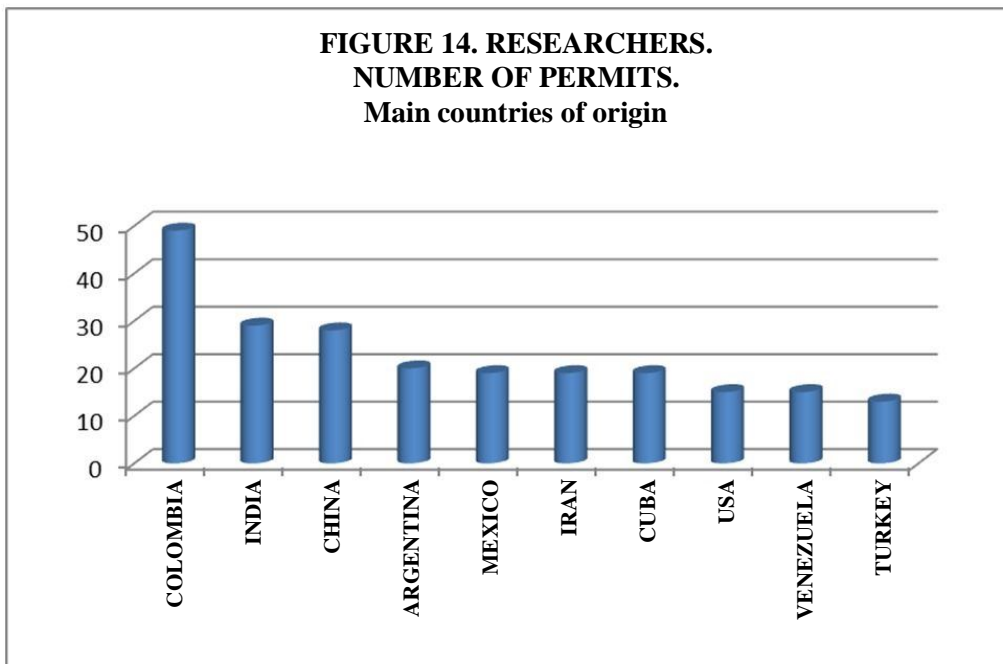
Of the total permits issued during the term of the Act, 12%, or 369 out of 3,119 permits (apart from those for family members) were for the training and research category, which represents a 266% increase over the period from September 2012 to September 2013, when only 50 permits were issued under the category for researchers in the *Ley Orgánica* and its implementing regulations.

The 10 leading countries of origin of researchers (Table 16 and Figure 14) account for 61.2% of permits and are as follows: Colombia with 49 permits (13.3% of the total), India with 29 (7.9%), China with 28 permits (7.6% of the total), Argentina with 20 (5.4%), Mexico, Iran and Cuba with 5.1%, respectively, the USA (4.1%), Venezuela (4.1%) and Turkey (3.5%).



<b>TABLE 16. RESEARCHERS.</b>		
<b>Main countries of origin</b>		
<b>COUNTRY OF ORIGIN</b>	<b>No. of permits</b>	<b>% total</b>
<b>COLOMBIA</b>	49	<b>13.3</b>
<b>INDIA</b>	29	<b>7.9</b>
<b>CHINA</b>	28	<b>7.6</b>
<b>ARGENTINA</b>	20	<b>5.4</b>
<b>MEXICO</b>	19	<b>5.1</b>
<b>IRAN</b>	19	<b>5.1</b>
<b>CUBA</b>	19	<b>5.1</b>
<b>USA</b>	15	<b>4.1</b>
<b>VENEZUELA</b>	15	<b>4.1</b>
<b>TURKEY</b>	13	<b>3.5</b>
<b>10 leading countries</b>	<b>226</b>	<b>61.2</b>
<b>TOTAL</b>	<b>369</b>	<b>100.0</b>

*Source: Ministry of Employment and Social Security*



As regards the destination institutions of these researchers (Table 17), we see that 57.7%, i.e. 213, went to work at universities, 19.2% at the Spanish National Research Council (CSIC), i.e. 71, and 11.4% at foundations (42 permits).

<b>TABLE 17. RESEARCHERS</b>		
<b>DESTINATION</b>	<b>No. of permits</b>	<b>% total</b>
<b>UNIVERSITIES</b>	213	57.7
<b>CSIC</b>	71	19.2
<b>FOUNDATIONS</b>	42	11.4
<b>OTHER</b>	43	11.7
<b>TOTAL</b>	<b>369</b>	<b>100.0</b>

*Source: Ministry of Employment and Social Security*

vi. Estimated number of new jobs since the adoption and implementation of the International Mobility Section of *Ley 14/2013*

<b>TABLE 18. ESTIMATED INVESTMENT AND NEW JOBS AS A RESULT OF LEY 14/2013</b>			
	<b>Investment (EUR millions)</b>	<b>Direct employment</b>	<b>Indirect employment</b>
<b>Property</b>	369.7	1,127*	
<b>Financial assets</b>	37.5	114*	
<b>General Interest</b>	39.5*	374*	
<b>Entrepreneurs</b>	233.8*	2,624*	
<b>Highly Qualified</b>	13.5*	3,066**	
<b>Inter-corporate</b>	N/A	907	
<b>Researchers</b>	N/A	369	
<b>Total</b>	694**	8,581**	4,104*

**Total direct and indirect employment = 12,685**  
\*: estimated values  
\*\*: sum of declared and estimated values  
**Source: Ministry of Economy and Competitiveness**

Table 18 shows the estimated investment made by beneficiaries of the Mobility Section, which amounts to EUR 694 million, of which the sum from declared property investment was the largest (with EUR 369.7 million), followed by the estimated investment by entrepreneurs (which amounts to EUR 233.8 million).

As regards job creation, the estimated total employment amounts to 12,685 workers, 8,581 in direct employment and 4,104 in indirect employment.

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In the direct employment, 1,241 positions are the estimated employment that the financing of financial investments could create.

The indirect employment amounts to 4,104 workers, a conservative estimate calculated using the results obtained with different hypotheses in a model of the Spanish economy.

### **VIII. LEY 14/2013 IN THE PRESS**

Section 2 of Title V of *Ley 14/2013* takes the form of a regulatory change that significantly expands the understanding of Spanish immigration policy. Within a dynamic vision of the economy, immigration policy is regarded as an element of competitiveness that maximises the internationalisation of business and economic growth and employment.

The importance of this section was echoed in the national and international press.

In November, The New York Times published an article in one of its editions on the improvements made in Spain with this Act, stressing the importance of such improvements to attract entrepreneurship and echoing the good reception of the Act in the business community.

Link:

<http://www.nytimes.com/2014/11/23/business/international/at-spains-door-a-welcome-mat-for-entrepreneurs-.html?hp&action=click&pgtype=Homepage&module=second-column-region&region=top-news&WT.nav=top-news>

#### **At Spain's Door, a Welcome Mat for Entrepreneurs**

**By NICK LEIBERNOV. 22, 2014**

Last year, after more than a decade in Silicon Valley, Stacia Carr helped sell the company she was running and went looking for a change of pace.

“The Bay Area is supersaturated,” she said. “It’s very expensive; it’s hypercompetitive.” After a friend connected her with Iñigo Amoribieta, a former chief executive of Groupon [Spain](#), Ms. Carr and Mr. Amoribieta started talking about creating an online video business together that would be based in Madrid, his hometown.

Ms. Carr, 42, a Californian who has traveled extensively in Europe, long dreamed of living and working there. But as the founder of a start-up company and as an American citizen, she assumed that it would be “next to impossible” to get a work permit at a time when many European economies were struggling to rebound from the financial crisis.

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Then she learned of a law that Spain's government passed in September 2013 to help domestic businesses and to woo foreign talent and investment. It included a visa category for foreign entrepreneurs, requiring them to have little more than a government-vetted business plan, health insurance and enough money to support themselves while living in Spain.

In a Madrid cafe, Ms. Carr worked on plans for her new business.

"I thought the entrepreneurship visa was exactly what I needed," she said.

The law went into effect as soon as it passed, but when Ms. Carr contacted Spanish consulates in the United States, she couldn't find people who knew it existed, let alone how it worked. Convinced that word would eventually trickle down, she moved to Madrid from San Francisco in late November 2013 without applying for the entrepreneur visa, aware that Spain allows American citizens to stay for up to three months as tourists. Early this year, she and Mr. Amoribieta, 37, incorporated their venture, [Vidnex](#), while working from a business incubator in the Salamanca neighborhood of the city.

Vidnex offers an online tool that allows fitness instructors to teach classes remotely, streaming live video to their students. The classes are interactive, not prerecorded, with the student and the instructor able to see each other and talk in real time. Students can't see their classmates.

Setting up the business in Spain, Ms. Carr said, was more challenging and required more formal documentation than she had expected. And getting residency presented challenges. One of the first applicants to try to use the law's new entrepreneur visa, she found government workers unprepared to answer her questions. It was harder because she didn't speak Spanish, but Mr. Amoribieta helped her navigate the bureaucracy by preparing paperwork and scheduling appointments, including one meeting in which officials assumed that Ms. Carr was a personal trainer using the Vidnex service rather than a co-founder.

Still, she managed to gain approval for her renewable, two-year entrepreneur residency permit in March, about a month after she applied under the new rules. Ms. Carr acknowledged that Spain, a country where unemployment reached a record high of about 27 percent last year, might seem an unlikely place to start a business. But when compared with European start-up magnets like London and Berlin, Spanish cities like Madrid and Barcelona have lower costs and fewer competitors — and still have sufficient talent to get started, she said. Technical expertise can cost a quarter of what it would in Silicon Valley, Mr. Amoribieta said.

Vidnex is housed in an incubator called Area 31, run by IE Business School. The incubator buoyed their efforts — founders at other start-ups helped them find a contract designer and interns. Connecting with Madrid's entrepreneurs "was like finding my tribe a million miles from home," Ms. Carr said.

The new law, known as the Ley de Emprendedores, is Spain's latest effort to help domestic businesses and make the country more attractive to wealthy and talented people outside the European Union who want to start businesses, invest or work in the country. Billed by the government as reforms that would help create jobs at a time of high unemployment, the legislation created five visa categories, covering investors who buy at least 500,000 euros (about \$625,000) of real estate; entrepreneurs who plan to establish businesses; highly skilled professionals; researchers, scientists and teachers; and employees and trainees. Once approved, recipients are allowed to move freely through most European Union countries.

Visa decisions are promised within 10 working days, and residence permit decisions in 20. Processing is combined for married couples and their children.

"It really is a fast track," said Ana Garicano, a partner at the [Sagardoy](#) law firm in Madrid whose clients have used the law to get residency. "The government is meeting its own deadlines." And there are no limits on the number of foreigners who can take advantage of each category.

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The policy goes further than laws in some other countries in that it offers speedy residency to different types of immigrants, not just the wealthy, said Josep Herrero and José Manuel Novo, lawyers at [Roca Junyent](#) in Barcelona, a firm that guides foreign entrepreneurs and investors through the process.

“The Spanish law is much more inviting and much simpler than England’s law, Canada’s law and France’s law,” Mr. Novo said. “For example, entrepreneurs don’t need to show a minimum investment in their business.”

According to Mr. Herrero and Mr. Novo, Spain borrowed the best ideas from other countries with immigration policies intended to lure talent and investment — such as Canada, Britain and Chile. Vivek Wadhwa, an academic with positions at Stanford, Duke and Singularity University who advised the Chilean and Spanish efforts, bemoaned the United States for failing to pass similar legislation. “We don’t have a start-up visa,” he said. “We’re forcing people to leave this country and go to other countries.”

Spain’s changes send “a message to the world that Spain is liberalizing its economy, and at the same time internationalizing its economy,” said Miguel Ángel Vidal, secretary general of [Foro Español de Expatriación](#), a lobbying group for Spain’s biggest companies, including Banco Santander and Telefónica. He emphasized that businesses in Spain could now easily hire foreign nationals, bring in employees from overseas and train clients in Spain. “It’s a radical change,” he said.

Yet so far, even though the law has been in effect for more than a year, fewer than 100 foreign entrepreneurs have been granted residency through it. Some critics have questioned both its impact and whether its measures go far enough. There is also a possibility its appeal could be diminished by tax reform legislation that was approved last week by Parliament and is scheduled to go into effect on Jan. 1 after King Felipe VI signs it.

The legislation creates a one-time exit tax on unrealized capital gains that will apply to certain entrepreneurs and investors with tax residency in Spain who leave and claim residency elsewhere. “It’s a real contradiction to the Ley de Emprendedores,” said Mariano Gomariz, a tax partner at the [Ecija](#) law firm in Barcelona. It will “discourage investment.”

But the exit tax will apply to entrepreneurs only if they stay for 10 years and then claim tax residency in a different country. “This should not hamper entrepreneurs from coming to Spain,” said Álvaro de la Vía, a professor of tax law at IE University, adding that the United States and some European countries had similar laws and that more were considering adopting them.

In total, about 3,800 foreigners, including investors, professionals and their family members, have received residency via the new immigration rules, according to the Economy Ministry, and more than €280 million has been invested, primarily in real estate. An additional €265 million has been pledged for business projects.

Jaime García-Legaz, the Spanish secretary of state for the economy, said that the immigration reforms were working as intended and that he expected the number of investors and entrepreneurs to increase gradually, “as it has in other countries which put similar rules in effect.”

In the United States, awareness of Spain’s bid for entrepreneurs has yet to spread. Juan Martínez-Barea, a Spanish biotechnology entrepreneur who also promotes [Singularity University](#), a technology-focused institution in Silicon Valley, to tech circles in Spain, said that few within his network were familiar with his country’s attempt to lure talent and capital. “The law is on the right track but needs measures that would make it a little more revolutionary,” he said, noting that the Chilean government’s popular [Start-Up Chile](#) program grants \$34,000, along with one-year residency, to founders who relocate to that nation.

Chile’s effort, started as a pilot program in 2010, has attracted nearly 2,000 entrepreneurs, whose businesses have raised more than \$100 million in financing. The Chilean government has not yet conducted a study of the program’s economic impact, but Sebastián Vidal, executive director of Start-Up Chile, explained that while its short-term mission was “cultural,” he expected the long-term effects

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to improve the economy significantly. Mr. Wadhwa described Chile's initiative as the world's most aggressive effort to lure entrepreneurs and said it was putting Chile on the map as a destination for start-ups.

By comparison, Spain's law lacks the excitement of free money. The policy assumes foreigners *want* to come, Mr. Martínez-Barea said, "but it's lacking an element that will *make* them want to come."

A sweetener that the Spanish government should highlight, he said, is its unsecured lending program, which has about €100 million, or \$125 million, to lend to innovative small and midsize companies annually. The loans, from €25,000 to €1.5 million, are available to all entrepreneurs, regardless of nationality, who have a business based in Spain (except for those running real estate or financial ventures). The public financing company making the loans, [Enisa](#), doesn't track applicants' nationality, said Carmen Cuesta, a spokeswoman, but plenty of foreign-born entrepreneurs have received them since Enisa was created in 1982. Last year, it made more than 600 unsecured loans to entrepreneurs, with an average amount of about €31,000.

Mr. Martínez-Barea credits the birth of [Universal Diagnostics](#), his own biotech start-up company in Seville, in part to the €200,000 it received from Enisa. He says he is convinced that if more foreign entrepreneurs knew about the government loans, they'd find Spain more enticing: "My friends at Singularity University say, 'Wow, I want this.'"

And so did Ms. Carr and Mr. Amoribieta. They applied to Enisa in May and received approval in early October for up to €75,000. Vidnex, they said, was released to the public in September and is gaining traction among dozens of fitness instructors, mostly in Spain, who use the service to teach their classes online. Yet no matter where it is and how much help it gets, a start-up company still has to prove that its business model works, and Mr. Amoribieta acknowledged that the sales process had been slow. "We are starting to realize," he said, "that while the technology is here to work out remotely, it will take time for people to come around to this concept."

But based on its expenses, he said, Vidnex has "plenty of financial runway" and a plan for future hiring, contingent on sales growth. Some of those new employees, he said, may come through the new law.

At national level, the financial press reported on the marked improvement in Spain's position in the OECD services trade restrictiveness index (STRI).

Link:

<http://www.europapress.es/economia/macroeconomia-00338/noticia-economia-macro-ocde-aplaude-apertura-comercial-espana-sector-servicios-20140508142533.html>

### **The OECD welcomes the trade openness of Spain's service industry**

MADRID, 8 May. (EUROPA PRESS) -

The OECD's new Services Trade Restrictiveness Index (STRI) has zeroed in on Spain as an example of a liberal country because it has a lower than average index in 15 of the 18 sectors studied.

The new index, presented at the OECD Ministerial Conference held on 6 and 7 May, offers an up-to-date snapshot of the barriers to trade in 18 service industries in 40 countries, accounting for 80% of the world's trade in services.

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The analysis on Spain finds that the general regulations applicable to all sectors are fairly liberal and that there are no generic impediments to foreign investment. In addition, public procurement is regulated by the principle of non-discrimination and Spain is a country open to trade through the movement of natural persons.

Spain also has the fewest restrictions in two sectors – commercial banking and commercial distribution – and figures among the top 6 in 8 of the 18 areas of the study.

The service industry is key for the Spanish economy, since 59% of the added value of exports are services, significantly above the OECD average, which is slightly less than 50%.

The Secretary-General of the OECD, Ángel Gurría, has said that service markets can make a strong contribution to the growth target of 2% for the G20 economies.

With this new index designed by the OECD, countries can compare their results, trade negotiators can eliminate bottlenecks, economic policymakers can identify priority areas for reform and businesses can determine what they need to access foreign markets.

The index is composed of an online regulatory database containing the legislation applicable to the services trade in each country in the different sectors, and a series of indices quantifying trade restrictions by grouping them into five categories. The indices have values between zero and one, where the value zero is attributable to total liberalisation of trade and investment and the value one represents a sector totally closed to outside trading.

In general, the index shows that the average levels of restrictiveness are significant and vary from country to country, which suggests that there are opportunities for liberalisation and the implementation of best practices in all of them.

The most restrictive sectors globally are air transportation and legal and accounting services, which are all facilitators of trade and, if opened up, could bring potential benefits.

Barriers to foreign ownership are widespread in the infrastructure sectors, while restrictions on the movement of people and nationality requirements are the main barriers to trade in professional services. Within construction services, the main impediments are those to public procurement.

The press has also picked up on the increase in the number of skilled or highly skilled foreign workers: another testimony to the success of the Entrepreneurs Act and the new vision of Spanish immigration policy, which is making a positive contribution to the economy through the creation of approximately 800 new jobs<sup>15</sup> linked to investment or business ventures. The article also points out the positive assessment of the Act by diverse companies and forums.

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<sup>15</sup> This estimate is lower because the article is dated July 2013.

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Link: <http://www.expansion.com/agencia/efe/2014/07/13/19723990.html>



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## Visas for highly qualified professionals double in six months

13/07/2014 EFE. Ruth del Moral

Madrid, 13 July (EFECOM). The number of highly qualified foreign professionals awarded a residence permit or visa to work in Spain has doubled in the past six months following entry of the new Entrepreneurial and Internationalisation Support Act.

According to data from the Secretary of State for Trade, to which EFE has obtained access, the number of permits for workers of this profile on 30 June totalled 513, representing an increase of 137.4% over the preceding six months.

This figure, combined with the 72 awarded to researchers and 31 to entrepreneurs, makes a total of 650 permits, while visas for intra-company movements stand at almost 500 and have increased 64.5% in the past six months.

In total, the Government has issued almost 2,000 permits or visas out of the 2,500 applications submitted, including those awarded to third-country investors acquiring properties worth at least €500,000 or buying government debt in excess of €2 million.

Sources from the Ministry of Economy have confirmed that up to 800 jobs will be created solely from the projects in the general interest presented by entrepreneurs up to June.

Luis Oscar Moreno, Deputy Director General for International Trade in Services and Investment, an agency under the Ministry of Economy, tells EFE that Spain's legislation was previously "hostile" to investment and that this Act manages to "incorporate immigration as an element of mobility to promote competitiveness."

He points out that the legislation fosters the attraction of talent to Spanish business schools, "which are global leaders", and allows international students to complete master's degrees and embark on projects without red tape issues because they are awarded their residence permit in less than 20 days.

"We cannot attract investment if there are barriers to executives, entrepreneurs and talent," he notes, adding that the projects in the general interest cover all sectors, from technology, mobile devices and engineering to the pharmaceutical, computer and sports sectors.

Javier Muñoz, Head of the Professional Careers department at IESE business school tells EFE that this Act will transform Spain into a talent "magnet" and explains that entrepreneurial interest from students in Asia, Latin America and the United States is on the increase.

He notes that the new legislation makes it easier to implement these projects without a minimum investment.

The Director of the Business Angels network at IESE, Amparo de San José, adds that the projects are becoming increasingly "more ambitious and investable".

Muñoz notes that relaxing the visa issue process now means that a Spanish company can open subsidiaries abroad and train non-EU employees at the parent site, something that was previously a long, drawn-out process.

Along these lines, Ana Gazarián, CEO at EMS, services company for the international mobility of companies and professionals, explains "companies were going to other sites in Europe and setting up their training centres there".

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She also considers positive the permits granted through capital inflows because they contribute to the economic development of a country.

“At the end of the day, raising capital creates jobs, whether through a property purchase, which needs upkeep and generates consumption and new service areas, or through the purchase of shares, which also helps strengthen the national economy”, says Gazarián.

Another development of the new law is that it grants immediate work permits for the recruitment of highly qualified professionals or those with projection, without requiring a particular salary level.

From the standpoint of international employers, Miguel Ángel Vidal, Secretary General of the Spanish Expatriate Forum (FEEX), believes that the “input” is “clearly positive”.

He notes that the regulations allow for international scholarships; in other words, a foreign professional of proven merit can automatically obtain a permit to study a postgraduate degree at a business school and fund their studies by working at the company sponsoring them.

“Now we are harnessing something essential: the war for talent, and Spain will play a vital role in it over the coming years”, he says.

However, according to Gazarián, the Spanish legislation could be improved by granting resident permits directly without submitting a contract for academics with a very strong CV, either because they have taught classes or because they have published works.

Marco Martín, Head of the Legal Division at EMS, notes that the length of a person's stay in Spain is no longer relevant for the renewal of permits, which allows for easier expatriation of foreign employees who must sometimes leave the country to travel to other subsidiaries in abroad.

## **IX. CONCLUSIONS**

Section 2 of Title V of *Ley 14/2013* has transformed the model of international mobility in Spain.

The new regulation has succeeded in introducing the perspective of support for the internationalisation of the economy and Spanish business in the design of immigration policy, allowing for the removal of obstacles to investment, talent and entrepreneurship. Spain now has a mobility framework suited to the needs of the Spanish economy in its consolidation of internationalisation. The main effects are described below.

### **1. ESTABLISHMENT OF A FRAMEWORK CONDUCIVE TO THE INTERNATIONALISATION OF THE ECONOMY**

The legislation has entirely transformed Spain's management of immigration. In previous years, migration had focused on meeting the needs of a labour-intensive job market, often unqualified. The recession highlighted the need for structural reform to increase the

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competitiveness of the Spanish economy and the ability of Spanish companies to compete in a global environment.

It is significant not only for what the attraction of investment and talent means, but also for the trade benefits and opportunities it creates in the negotiation of international agreements.

It is also helping to improve Spain's image as a country that attracts talent.

The Act is helping to open up new markets for Spanish companies and to internationalise the economy through:

- **The arrival of investors and entrepreneurs.** The Spanish immigration system was not favourable to the settlement of foreign nationals in Spain as investors and entrepreneurs. With the new concepts defined in the Act, Spain is now a destination open to investment and entrepreneurship, since the barriers and obstacles that distinguished the Spanish model from that of more open States have been removed.
- **Entry and retention of talent.** Foreign talent is a revulsive for the generation and dissemination of knowledge. The notions of brain drain/brain gain are being replaced by brain circulation, i.e. the movement of talent is important for the production of global knowledge. Intelligent remittances are becoming increasingly relevant for the countries of destination and origin of immigration.
- **The opening of new markets.** The arrival of specialists and professionals of different cultures has allowed Spanish companies to expand their business into new markets more easily.
- **Improved negotiation of trade agreements.** The establishment of a model of open economic migration has favoured the negotiation of trade agreements by allowing Spain to adopt offensive positions that generate advantages for Spanish companies.

According to the Secretary General of the Spanish Expatriation Forum (<sup>16</sup>FEEX), Miguel Ángel Vidal, “*the Entrepreneurial Support and Internationalisation Act adopted by the*

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<sup>16</sup> Feex is a non-profit association seeking to promote international labour mobility. It was founded in 2004 by leading Spanish companies with an international presence.

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*Spanish Parliament last September has completely changed the situation in Spain and become a driving force of the internationalisation of the Spanish economy.*

*We believe that this Act offers a realistic response to the needs of companies and investors in an increasingly global economy and fosters internationalisation by including new types of visas that are better suited to international mobility and with processing times that are more consistent with today's business management.”*

## **2. IMPROVED INTERNATIONAL VISION OF SPAIN AS A DESTINATION FOR INVESTMENT AND TALENT**

The shift in focus introduced by Spain to qualified migration has been very well received by international agencies.

This has been noted from the outset during the negotiations by EU institutions on this issue, essentially with regard to the ICT Directive, in which Spain has played a leading role for Europe, promoting the model laid down in Section 2 of Title V of *Ley 14/2013*.

Nonetheless, if there is a paradigmatic example of this transformation of the vision of Spain as a focus for attracting talent and foreign investment, it is the score that it obtained in the Services Trade Restrictiveness Index<sup>17</sup> presented at the OECD Ministerial Conference in May 2014. The report ranked Spain as an example of a liberal country, noting that: *“Spain has a lower STRI score than the sample average in 15 out of 18 sectors<sup>18</sup>. The country’s general regulations applying to all sectors of the economy are quite liberal. There are no generic impediments to foreign investment [...]; there are no generic discriminatory taxes or subsidies in place. Public procurement regulations rely on the principle of non-discrimination [...]. Spain is open to trade through the movement of natural persons”<sup>19</sup>.*

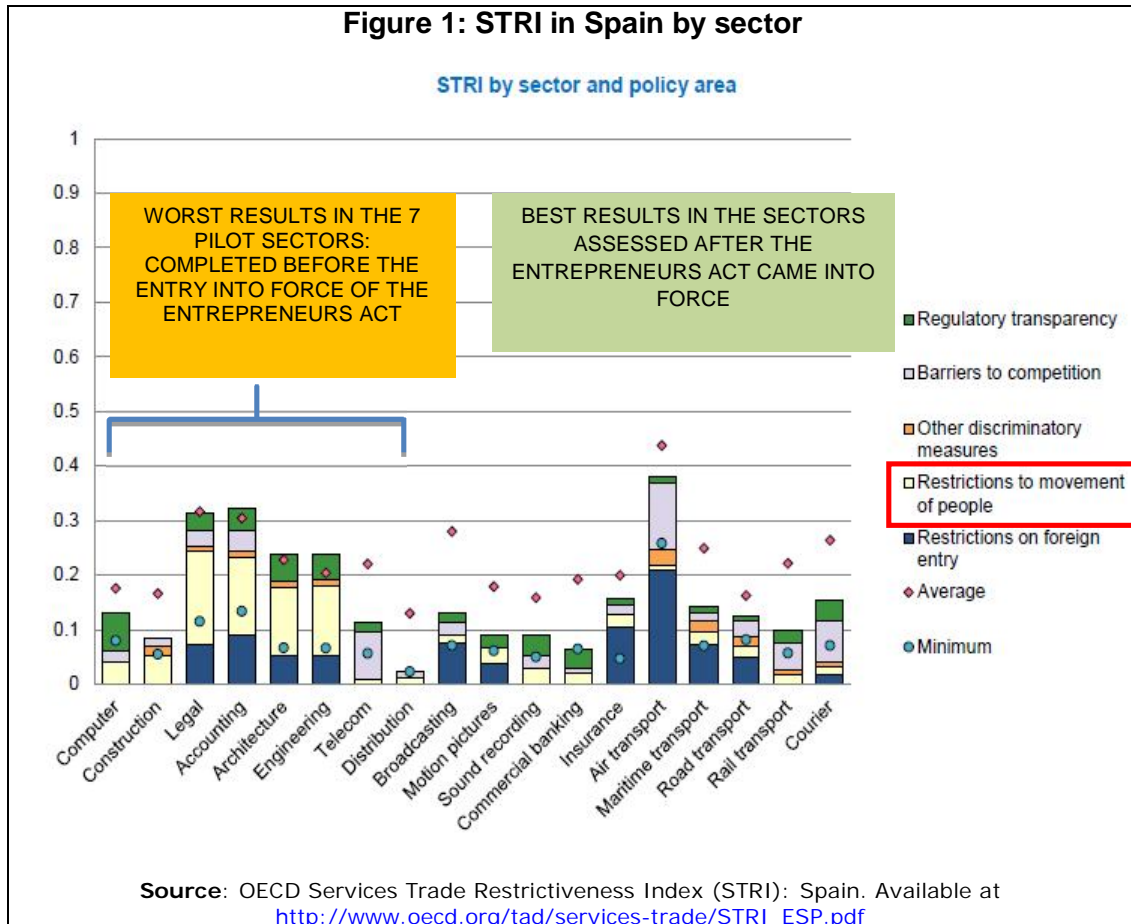
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<sup>17</sup> Services Trade Restrictiveness Index (STRI)

<sup>18</sup> The sectors with the highest index are (i) air transport, (ii) legal services and (iii) auditing.

<sup>19</sup> In its original wording: *“Spain has a lower STRI score than the sample average in 15 out of 18 sectors. The country’s general regulations applying to all sectors of the economy are quite liberal. There are no generic impediments to foreign investment (e.g. screening or requirements on the nationality and residency of board members); there are no generic discriminatory taxes or subsidies in place; and the laws and regulations are transparent and grant due process to foreign providers (e.g. appeal procedures). Public procurement regulations rely on the principle of non-discrimination, but foreign suppliers are required to present documentation showing that their country of origin grants reciprocity to Spanish companies. There is also at least one major state-owned enterprise in banking, broadcasting,*

These findings are due in part to the important role of the Entrepreneurial Support and Internationalisation Act, as shown by the results of the sectors analysed before and after the entry into force of the Act in relation to the parameter "restrictions on the movement of people".



The OECD also qualified the adoption of the new regulatory framework as particularly relevant in its International Migration Outlook 2014, stating that “**this specific model combines the perspectives of support to business internationalisation and the promotion of economic growth based on the traditional goals of migration policy: security and employment**”.

*courier services, and rail freight transport. In banking, public ownership stems from recapitalisations during the financial crisis. Spain is open to trade through the movement of natural persons”.*

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We can conclude by stating that the external view of Spain as a country open to foreign investment, talent and entrepreneurship is one of the greatest achievements of *Ley 14/2013*.

### 3. OBJECTIVE RESULTS OF *LEY 14/2013*

As described in Section VIII of this report, the new international mobility policy has had a significant impact on the Spanish economy and been widely welcomed by the business sector, as shown by objective data:

- Since its approval, 5,580 residence permits and visas have been issued (3,119 to foreign nationals forming part of any of the categories provided for in the Act and 2,461 to members of their families).
- The foreign investment received under this new framework has amounted to EUR 369.7 million in property and EUR 37.5 million in financial assets.

Moreover, according to the investment and entrepreneurial projects assessed by DGCOMINVER, **the investment generated by all categories over the next five years is expected to reach EUR 694 million and generate around 12,685 new jobs (8,581 direct and 4,104 indirect).**

### 4. RECOMMENDATIONS

We can conclude that the implementation of *Ley 14/2013* is producing positive results. However, the experience of countries with a longer tradition in this type of immigration underlines the need to make continuous assessments and adjustments to economic migration programmes, as is the case of countries such as Canada, Australia and the United Kingdom. Such assessments should not be considered a sign of weakness of the system; on the contrary, they are an integral part and a strength thereof. This is the meaning of the Eleventh Final Provision of *Ley 14/2013*, which provides for its extension to situations not originally considered.

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In accordance with the above, the following recommendations are made:

a) *From a regulatory point of view.*

Since the entry into force of the Act and with the experience gained from its application, this report suggests that a series of legal amendments would be desirable.

Specifically, certain aspects of the regulation have been found to generate legal uncertainty. In addition, following this implementation period, there are grounds for opportunity that would justify adaptation of the Act to the needs of citizens and the introduction of improvements to administrative procedures, following the "fine-tuning" model used by our neighbouring countries.

Many countries, including members of the European Union, are also making legislative changes to ensure more advantageous legislation, thereby facilitating the entry of foreign investment and talent. Furthermore, virtually across the board, trade agreements include parallel sections on economic mobility, such as those of the USA-Australia (E3 visa), USA-Chile (H1B visa) and the USA-Singapore (H1B visa). It is therefore important to update the Spanish system to the trends taking place in other countries in order to maintain the attraction of our legislation and improve our competitiveness.

Hence, the interdepartmental working group that participated in its development and is involved in its implementation considers that, in the interests of greater legal certainty, reform of the legal text could significantly improve its efficiency by exerting a positive impact on the internationalisation of the economy and improving the competitiveness of Spanish companies.

Together with this reform of the legal text, it would be beneficial to develop Section 2 of Title V as implementing regulations to complete and develop its provisions.

*Through a regulation with the status of a law,* the following elements could be introduced into the Spanish international mobility system:

- Firstly, the reform of the Act (and its regulatory development, which is discussed below) should serve to fully transpose the ICT Directive into Spanish law.

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As explained earlier, some of the provisions of the latter have been transposed into Spanish law by *Ley 14/2013*, and this has already been communicated to the Commission. However, there are still some aspects that need to be incorporated into national law.

The scope of intra-corporate transfers under *Ley 14/2013* is broader than that of the ICT Directive and, more importantly, the directive provides for the maintenance of parallel national systems for categories not regulated by the Community legislation. The Spanish legislation includes the concepts referred to in trade agreements as independent professionals (IP) or those employed by contractual service suppliers (CSS) – those transferred under an agreement between two companies that are not part of the same group but which have a business relationship. Furthermore, the directive only applies to three categories of employees: managers, specialists and trainee employees. In all other cases, the national system applies. We must therefore distinguish between two types of residence permit for intra-corporate transfers:

- a) Residence permit for EU ICT intra-corporate transfers, which are regulated by the directive and are eligible for intra-EU mobility, i.e. they allow the holder to reside and work in another Member State as part of the same intra-corporate transfer. This intra-EU mobility brings added value to companies because it promotes the development of projects in other MS through the movement of key staff.
  - b) National residence permit for intra-corporate transfers, applicable to cases not covered by the directive.
- Secondly, any legislative amendment must improve certain elements of *Ley 14/2013*. These elements could include the following:
- In cases where the foreign national is in Spain, to allow applications for a residence permit provided for by *Ley 14/2013* in order to extend the



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validity of their residence or stay status <sup>20</sup>in the country until, for example, a decision is made on the procedure.

In many cases, foreign nationals applying for or renewing one of the permits provided for in *Ley 14/2013* do so in the few days before expiry of the validity of their permit in Spain (due to ignorance of the legislation or lack of documentation). Hence, in the process, they lose their regular status in Spain and must return home to restart their application. It would therefore be desirable for the filing of the application to offer an extension to their legal situation while a decision is made on the procedure they have initiated, as generally occurs under the immigration system of the LOEX.

- Include as beneficiaries under the system (in addition to the spouse and children under the age of 18 or those older than 18 who are objectively incapable of providing for themselves for health reasons):
  - (i) Registered co-habiting partners or persons with a similar affective relationship.
  - (ii) Adult descendants who are financially dependent on the permit and/or visa holder and who have not established a family unit themselves.

Family is a key factor in making the decision to move to another country, so facilities should be provided in cases where the children or parents are financially dependent on the holder of the permit and/or visa.

- Identify the competent general government agency for issuing reports before making a binding application for a visa or residence permit. Since this body is not identified in *Ley 14/2013*, there have been cases in which applicants have spent several months trying to locate the competent government agency. It should therefore be clearly stated that the body with the powers to issue reports on entrepreneurial business (Art. 70)

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<sup>20</sup> Includes reference to the situation of student stays.

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and the reports required by companies that meet the requirements of Art. 71.a) 5 and 71.b) is the State Secretariat for Trade, specifically the Economic and Trade Offices (for visa applications) and the Directorate General for International Trade and Investment (for permit applications). Although this is the case in practice, it is not set out in the legislation.

- Establish the duty of the residence permit holder to notify the UGE-CE of any change thereto. This is essential for ensuring that the requirements are still met.
- In the investors category, a number of changes are required, the most notable of which are:
  - Introduce the possibility, as is the case for the other categories, of applying directly for an investor residence permit in the case of investors who are legally in Spain, without having to apply first for a visa.
  - Specify that the investors visa allows its holder to reside and work in the country.
  - Within the concept of significant investment, include investment in investment funds, closed-end investment funds or venture capital funds set up in Spain.
  - Include the concept of investor's representative, because this issue is not resolved in the regulations. This would be in response to demand from the business sector to enable companies to win international contracts abroad and gain foreign customers.
  - Extend the time between making the investment and filing the application by the investor in the case of investment in government bonds, stocks or shares and bank deposits. Investors currently have just 60 days in which to provide proof of their financial asset investment, which is clearly insufficient for all the formalities set out in the regulations. This means that investors who have invested

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the amounts required by law cannot obtain the relevant investors visa because they cannot obtain proof of their investment made by the set deadline.

- Clarify the status of properties purchased by a married couple under the community of property system. As this is not mentioned in the Act, there have been situations where investors have been unable to benefit from the advantages of the Act, despite meeting the requirements.
- Allow for the possibility of obtaining a residence visa or permit for investors who have not completed their property purchase but who have signed a deposit agreement and for which the funds of the investment are being held in an inaccessible Spanish bank deposit. This would create a system that generates confidence among investors because on completion of the purchase of the property or properties and provided that the general requirements of the law are met, the applicant may obtain a residence visa or permit for investors.
- Extend the renewal periods for investor residence permits from 2 to 5 years, provided that the conditions giving rise to this right are maintained. This would produce a more attractive scheme as it would allow Spain to compete on equal terms with other countries with similar systems.

Besides this reform of the legal text and in parallel thereto, it would be desirable to adopt a *Royal Decree developing the key aspects of Section 2 of Title V of Ley 14/2013*, mainly in relation to procedures (e.g. matters concerning electronic notifications as a method of communication for renewals, the deadlines for issuance of reports by the DG International Trade and Investment, thereby strengthening the one-stop shop system), which would ensure the proper and efficient functioning of the Act.

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Some of the elements that should be included in the implementing regulations are:

- The procedure for renewing the residence permit of entrepreneurs should be set out more clearly.

The incorporation of elements allowing the use of a one-stop shop for application and renewal procedures should also be considered (i.e. ex officio request from the UGE to the Directorate General for International Trade and Investment for the report on entrepreneurial business).

- The analysis on researchers conducted in the assessment of *Ley 14/2013* and the day-to-day practice following its entry into force have shown that the Spanish legal system lacks the clarity and consistency required of any qualified migration system because the LOEX and its implementing regulations contain diverse concepts with different systems for the same situation. In the light of this, it is necessary to clarify which systems remain in force.
- With regard to intra-corporate transfers, as previously mentioned, certain aspects of the ICT Directive must be transposed in a regulation. This would allow the detailed development of all procedural aspects. There is the possibility of including a measure on the contributions and coverage of Spanish expatriates (the other side of the intra-corporate transfer phenomenon).

**Given that the Spanish economy is starting to recover, and considering the link between international mobility and the competitiveness and internationalisation of the Spanish economy, these adjustments should be made as soon as possible in order to maintain and consolidate the liberal and open nature of the new model. Furthermore, the transposition of the ICT Directive and the consideration of intra-EU mobility could generate significant advantages for Spanish enterprise so it should not be delayed.**

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b) *From the perspective of the implementation of the legislation.*

Although Section 2 of Title V of *Ley 14/2013* is now fully implemented, we need to make progress in crucial issues for its effective implementation. In particular, we must:

- Make progress in *promoting and raising awareness of the Act both nationally and internationally.*

While an important effort is being made in this regard, there is still a great deal of ignorance about the possibilities offered by the new regulation, its limits and its implications. It is vital to raise awareness in order to maximise the potential of the standard and its impact on the Spanish economy.

This will require a **Strategic Plan for the Dissemination of International Mobility** along the lines of those launched in countries like Australia or New Zealand. This would allow actions and efforts to be focused on areas where they can deliver the biggest impact.

- Adopt measures to *improve the management of its implementation.*

The implementation of the new regulations will require major management improvements and an effort to reduce processing times. However, to reconcile this flexibility with the quality and security that the system has to offer, it will be necessary to adapt the available organisational and human resources to the number of cases processed.

With regard to human resources, the staffing of certain important units (consulates, UGE and DGCOMINVER) will need to be reinforced. With regard to material resources, the current software must be upgraded to allow the transmission of information between the various units involved, both in relation to the common software and any subsequent developments.

c) *In the context of other policy areas*

*Ley 14/2013* has been drafted to represent a change in understanding of immigration policy with its incorporation of the perspective of economic internationalisation,

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which is now regarded as a factor of competitiveness to help attract talent, investment and entrepreneurship to Spain.

It is nonetheless only a first step in the transformation of the economic model and the improved competitiveness that is sought. And immigration policy is a necessary but insufficient condition for attracting investment, talent and entrepreneurship. It is therefore essential to consolidate a climate favourable to business. Hence, in order to remove barriers to the full internationalisation of Spanish enterprise in order to harness the full potential of *Ley 14/2013*, it is necessary to introduce coordinated processes (between all ministries involved) for reflection and improvement (similar to those developed in immigration) in order to provide answers to challenges in areas such as tax, employment and social security (i.e. clarification as to which type of Social Security system is applicable to intra-corporate transferees, whether that of the country of origin or of destination, especially where there is no bilateral agreement).

d) *In the international context*

Spain has made an effort to open itself up and it would be very positive to obtain equivalent benefits for Spanish companies in other states, as has occurred with Mexico.

In this context, it is important to make progress not only in the dissemination of *Ley 14/2013* outside Spain but also to offer it as a model of good practice and a framework for qualified migration, all in relation to the understanding of Mode 4 of the GATS.

Thus, it would be interesting to continue international negotiations to ensure that the principles underlying the Spanish legislation inspire the regulations of other countries, thereby benefiting our companies in Spain and abroad.

In short, *Ley 14/2013* has been internationally recognised as a driving force in Spain's leadership as a hub for the attraction of talent and foreign investment and an ideal country for embarking on entrepreneurial activity. The objective results of the new regulatory framework support this success.

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Nonetheless, Spain still has a long way to go. To make proper progress towards international mobility, we must continue to carry out significant actions, both promotional (i.e. awareness raising, the signing of international agreements, etc.) and for implementation in the strict sense (i.e. by increasing the available resources for compliance with the Act). Queries regarding implementation of the international mobility scheme have revealed that certain elements are generating legal uncertainty for citizens. In the light of this and in the interests of improved legal certainty, measures must be introduced as a matter of urgency to amend the legislation in aspects such as the International Mobility Section. Moreover, adoption of the regulatory text could have an impact on aspects of the regulation that require greater development and/or detail.

**ANNEX**

**Comparison of the Rights and Freedoms of Foreign Nationals Act (*Ley Orgánica 4/2000*), of 11 January, and *Ley 14/2013***

<b>INVESTORS</b>		
	<b>Entrepreneur support bill</b>	<b><i>Ley Orgánica 4/2000</i> and Royal Decree 557/2011</b>
	<b>Visa and residence permit for investors</b>	<b>Residence only permit</b>
<b>Entry</b>	<p>Visa = 1 year's residence in Spain.</p> <p>The ID card for foreign nationals is not mandatory.</p> <p>Residence permit: two years, renewable for subsequent two-year periods.</p>	<p>Visa + permit = 1 year's residence in Spain.</p> <p>The ID card for foreign nationals (TIE) is mandatory (one month after entering Spain).</p> <p>Renewal: lasts for two years.</p>
<b>Requirements</b>	<ul style="list-style-type: none"> <li>○ Source of livelihood.</li> <li>○ Compliance with security requirements.</li> <li>○ Public or private health insurance with an insurer authorised to do business in Spain.</li> <li>○ Compliance with money-laundering regulations.</li> <li>○ Investment in Spain:               <ul style="list-style-type: none"> <li>- In Spanish public debt (EUR 2 million)</li> <li>- In stock or holdings in Spanish companies (EUR 1 million)</li> <li>- In bank deposits in Spanish financial institutions (EUR 1 million)</li> <li>- Property purchase (EUR 500,000)</li> <li>- In a business project in the general interest: job creation, socio-economic impact on the geographical area or significant contribution to scientific and/or technological innovation (confirmed by a report issued by the consulate Trade Office)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>○ Source of livelihood: monthly sum equivalent to 400% of the IPREM public income index (EUR 2,130.04 in 2013), plus 100% (EUR 532.51) for each dependent.</li> <li>○ Compliance with security requirements.</li> <li>○ Public or private health insurance with an insurer authorised to do business in Spain.</li> </ul>



**INVESTORS**

	<b>Entrepreneur support bill</b>	<b>Ley Orgánica 4/2000 and Royal Decree 557/2011</b>
	<b>Visa and residence permit for investors</b>	<b>Residence only permit</b>
Processing	<ul style="list-style-type: none"> <li>○ Consulate (entry); UGE (changed to residence permit)</li> <li>○ Processing periods and administrative silence:               <ul style="list-style-type: none"> <li>○ Entry: visa application, determined by consulate (without involvement from the Immigration Office).</li> </ul> </li> <li>○ If the applicant wishes to reside for more than one year, they can apply for an investor residence permit.               <ul style="list-style-type: none"> <li>○ They must provide proof that:                   <ul style="list-style-type: none"> <li>- They hold an investor residence visa</li> <li>- They have travelled to Spain at least once</li> <li>- They have maintained their investment</li> </ul> </li> </ul> </li> </ul> <p>The permit is processed by the UGE</p>	<p>Consulate+Immigration Office (entry); Immigration Office or Police Station (TIE).</p> <p>Renewal: Immigration Office of the province of residence.</p>
Processing periods and administrat	<p>Entry: 10 working days.</p> <p>Renewal: 20 working days. Positive silence.</p>	<p>Entry: 2 months (1 month consulate + 1 month Immigration Office). Both negative silence.</p> <p>Renewal: 3 months. Positive silence.</p>
Effects	<p>Residence.</p> <p>For work: an application must be made for a residence permit.</p>	<p>Visa: residence and performance of activities derived from the investment.</p> <p>Permit: residence and, exceptionally, work.</p>
Family	<p>Spouse and children under the age of 18 or those who are objectively incapable of providing for themselves for health reasons can make a joint application with the investor.</p> <p>Processing periods: 10 working days for visas and 20 working days for permits.</p>	<p>Foreign nationals may regroup when they have resided in Spain for one year.</p> <p>Processing periods: 75 days (1 month for visa + 45 days for permit). Negative silence.</p>
Other matters	<p>The visa is processed at consulates.</p> <p>The permit is processed by the UGE.</p>	<p>The UGE does not have powers over this concept.</p>

INVESTORS		
	Entrepreneur support bill	<i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i>
	Visa and residence permit for investors	Residence only permit
Effective stay	The permit does not expire if the holder does not stay in Spain.	The permit expires if the holder does not stay in Spain for more than six months each year.

ENTREPRENEURS		
	Entrepreneur support bill	<i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i>
	Residence for entrepreneurs	Residence and work permit for self-employed workers
Entry	<p>Visa = 1 year's residence for the necessary arrangements prior to making the investment.</p> <p>Residence permit:</p> <ul style="list-style-type: none"> <li>○ may be applied for after the start of the activity, without the need for prior stays</li> <li>○ or it can be obtained directly by persons seeking entry to undertake entrepreneurial business or who are already in Spain with another visa or permit</li> </ul> <p>The ID card for foreign nationals is not mandatory</p>	<p>Visa + permit = 1 year's residence in Spain.</p> <p>The ID card for foreign nationals (TIE) is mandatory (one month after entering Spain).</p> <p>Renewal: lasts for two years.</p>

**ENTREPRENEURS**

	<b>Entrepreneur support bill</b>	<b>Ley Orgánica 4/2000 and Royal Decree 557/2011</b>
	<b>Residence for entrepreneurs</b>	<b>Residence and work permit for self-employed workers</b>
<b>Requirements</b>	<ul style="list-style-type: none"> <li>○ Source of livelihood.</li> <li>○ Compliance with security requirements.</li> <li>○ Public or private health insurance with an insurer authorised to do business in Spain.</li> <li>○ The business must be innovative and of particular economic interest to Spain (with a special emphasis on job creation), as confirmed by a report issued by the Ministry of Economy and Competitiveness.</li> </ul>	<ul style="list-style-type: none"> <li>○ Compliance with security requirements.</li> <li>○ Public or private health insurance with an insurer authorised to do business in Spain.</li> <li>○ A project must be presented for the intended activity (indicating the planned investment, expected return and estimated new jobs), together with proof that the person holds the legally required professional qualifications and has sufficient funds to make the financial investment. The activity must also be considered to be capable of generating enough funds to support the foreign national.</li> </ul>
<b>Processing</b>	<p>The entrepreneurs visa is processed directly by the consulates.</p> <p>The residence permit is processed by the UGE.</p>	<ul style="list-style-type: none"> <li>- The foreign national applies to the consulate, which forwards the request to the Immigration Office for it to make a decision on the permit application.</li> <li>- If the activity is to be carried out in Catalonia, the decision on the work permit is made by the Catalan regional government.</li> <li>- If the permit is awarded, the consulate issues the visa and notifies the foreign national.</li> <li>- The foreign national will have one month to pick it up, no more than three months to enter Spain and, from entry, one month to register with the Social Security and request an Identity Card (TIE).</li> </ul>
<b>Processing periods and administrative silence</b>	<p>Entry: 10 working days.</p> <p>Renewal: 20 working days. Positive silence.</p>	<p>Entry: 4 months (1 month consulate + 3 months Immigration Office/Generalitat). Both negative silence.</p> <p>Renewal: 3 months. Positive silence.</p>

**ENTREPRENEURS**

	<b>Entrepreneur support bill</b>	<b><i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i></b>
	<b>Residence for entrepreneurs</b>	<b>Residence and work permit for self-employed workers</b>
Scope	National.	Activity is geographically limited.
Family	Spouse and children under the age of 18 or those who are objectively incapable of providing for themselves for health reasons can make a joint application with the investor.  Processing periods: 10 working days for visas and 20 working days for permits.	Foreign nationals may regroup when they have resided in Spain for one year.  Processing periods: 75 days (1 month for visa + 45 days for permit). Negative silence.
Other matters	Processed by the UGE.	The UGE does not have powers over this concept.

Highly skilled professionals		
	Entrepreneur support bill	<i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i>
	Residence permit for highly skilled professionals	Residence permit for highly skilled professionals
Scenarios	<ul style="list-style-type: none"> <li>○ Highly skilled professional.</li> <li>○ Graduates, postgraduates of universities and reputable schools.</li> </ul>	<ul style="list-style-type: none"> <li>○ Highly qualified worker.</li> </ul>
Requirements	<ul style="list-style-type: none"> <li>○ Professional: <ul style="list-style-type: none"> <li>○ Source of livelihood.</li> <li>○ Compliance with security requirements.</li> <li>○ Public or private health insurance with an insurer authorised to do business in Spain.</li> </ul> </li> <li>○ Company (alternative requirements): <ul style="list-style-type: none"> <li>○ More than <b>250 workers</b> in Spain in the previous 3 months.</li> <li>○ Annual net turnover in Spain in excess of <b>EUR 50 mill.;</b> or equity or net worth in excess of <b>43 mill.</b></li> <li>○ Average annual gross investment from abroad of not less than EUR 1 million in the previous three years.</li> <li>○ Companies with an investment stock value or position in excess of EUR 3 million, according to the latest data from the Register of Foreign Investment of the Ministry of Economy and Competitiveness.</li> <li>○ <b>SMEs</b> established in Spain, in a <b>strategic sector.</b></li> <li>○ <b>Business project</b> found to be in the <b>general interest:</b> <ul style="list-style-type: none"> <li>○ Due to the direct creation of jobs.</li> <li>○ <u>Maintenance of employment.</u></li> <li>○ Due to the creation of jobs in its sector or geographical area.</li> <li>○ Extraordinary investment with a socio-economic impact on its geographical scope.</li> <li>○ <u>Interest for the trade and investment policy of Spain.</u></li> <li>○ A significant contribution to scientific and/or technological innovation.</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>○ Worker: <ul style="list-style-type: none"> <li>○ Higher education or 5 years' previous professional experience.</li> <li>○ Compliance with security requirements.</li> <li>○ Public or private health insurance with an insurer authorised to do business in Spain.</li> </ul> </li> <li>○ Company (alternative requirements): <ul style="list-style-type: none"> <li>○ More than <b>500 workers</b> in Spain in the previous 3 months.</li> <li>○ Net annual turnover in Spain in excess of <b>EUR 200 mill.;</b> or equity or net worth in excess of <b>100 mill.</b></li> <li>○ Average annual gross investment from abroad of not less than EUR 1 million in the previous three years.</li> <li>○ <b>SMEs</b> exclusively from one of the following strategic sectors: <b>ICT, renewable energy, environment, water, health sciences, biopharmaceuticals and biotechnology and aerospace.</b></li> <li>○ <b>Project</b> considered to be in the <b>general interest:</b> <ul style="list-style-type: none"> <li>○ Due to the direct creation of jobs.</li> <li>○ Due to the creation of jobs in its sector or geographical area.</li> <li>○ Extraordinary investment with a socio-economic impact on its geographical scope.</li> <li>○ Significant contribution to scientific and/or technological innovation.</li> </ul> </li> </ul> </li> </ul>

**Highly skilled professionals**

	<b>Entrepreneur support bill</b>	<i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i>
	<b>Residence permit for highly skilled professionals</b>	<b>Residence permit for highly skilled professionals</b>
Processing periods and administrative silence	<p>Entry: 10 working days.</p> <p>Renewal: 20 working days. Positive silence.</p>	<p>Entry: 4 months (1 month consulate + 3 months Immigration Office/Generalitat). UGE processing: 40 days (10 working days consulate + 1 month UGE). All negative silence.</p> <p>Renewal: 3 months. Positive silence.</p>
Scope	National.	<p>Activity:</p> <ul style="list-style-type: none"> <li>○ Processed by the UGE: national scope.</li> <li>○ Not processed by the UGE: limited geographically and by sector.</li> </ul>
Family	<p>Spouse and children under the age of 18 or those who are objectively incapable of providing for themselves for health reasons can make a joint application with the investor.</p> <p>Processing periods: 10 working days for visas and 20 working days for permits (both positive silence).</p>	<p>The foreign national may regroup on or after arrival in Spain.</p> <p>Processing periods: 75 days (1 month for visa + 45 days for permit). Negative silence.</p>
Other matters	<p>Legal concept: single permit.</p> <p>The National Employment Situation does not apply.</p>	<p>Legal concept: temporary residence and work permit (when not processed by the UGE, residence in Catalonia is awarded by the State and work by the regional government).</p> <p>If not processed by the UGE, the National Employment Situation applies.</p>

**RESEARCHERS**

	<b>Entrepreneur support bill</b>	<b><i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i></b>
	<b>Residence for training or research</b>	<b>Residence and work for research</b>
<b>Scenarios</b>	<ol style="list-style-type: none"> <li>1. Research staff Article 13 and First Additional Provision of the Science, Technology and Innovation Act (<i>Ley 14/2011</i>).</li> <li>2. Scientific and technical staff who conduct scientific research, development and technological innovation work at business undertakings or R&amp;D+i centres established in Spain.</li> <li>3. Researchers subject to an agreement with public or private research agencies, under the conditions set out in regulations.</li> <li>4. Teaching staff hired by universities, centres or institutions of higher education and research, or business schools established in Spain, in accordance with the criteria set out in regulations.</li> </ol>	<p>Foreign national staying in Spain with the sole or main purpose of carrying out research projects in the framework of host agreements signed with research organisations (list of Ministry of Economy and Competitiveness agencies).</p>
<b>Requirements</b>	<ul style="list-style-type: none"> <li>○ Source of livelihood.</li> <li>○ Compliance with security requirements.</li> <li>○ Public or private health insurance with an insurer authorised to do business in Spain.</li> </ul>	<ul style="list-style-type: none"> <li>○ Compliance with security requirements.</li> <li>○ Signing of a host agreement with an authorised agency.</li> </ul>
<b>Processing periods and administrative silence</b>	<p>Entry: 10 working days.</p> <p>When obtained in Spain or for renewals: 20 working days. Positive silence.</p>	<p>Entry: 75 days (1 month consulate + 45 days Immigration Office/Generalitat). UGE processing: 40 days (10 working days consulate + 1 month UGE). All negative silence.</p> <p>Renewal: 3 months. Positive silence.</p>
<b>Scope</b>	<p>National.</p>	<p>Activity:</p> <ul style="list-style-type: none"> <li>○ Processed by the UGE: national scope.</li> <li>○ Not processed by the UGE: limited geographically and by sector.</li> </ul>

**RESEARCHERS**

	<b>Entrepreneur support bill</b>	<i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i>
	<b>Residence for training or research</b>	<b>Residence and work for research</b>
Family	<p>Spouse and children under the age of 18 or those who are objectively incapable of providing for themselves for health reasons can make a joint application with the investor.</p> <p>Processing periods: 10 working days for visas and 20 working days for permits.</p>	<p>The foreign national may regroup on or after arrival in Spain.</p> <p>Processing periods: 75 days (1 month for visa + 45 days for permit). Negative silence.</p>
Other matters	<p>Legal concept: single permit.</p> <p>Allows research to be undertaken in R&amp;D+i companies</p> <p>The National Employment Situation does not apply.</p>	<p>Legal concept: temporary residence and work permit (when not processed by the UGE, residence in Catalonia is awarded by the State and work by the regional government).</p> <p>The National Employment Situation does not apply to scientific specialists hired by public bodies, universities or research, development or innovation centres.</p>



**INTRA-CORPORATE TRANSFER**

	<b>Entrepreneur support bill</b>	<i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i>
	<b>Intra-corporate transfer</b>	<b>Residence and work in the context of the provision of transnational services</b>
Scenarios	<p>Foreign nationals who transfer to Spain within the context of a working or <b>professional relationship</b>, or for <b>professional training</b>, with a company or <b>corporate group</b> established <b>in Spain or another country</b>.</p>	<p>Foreign workers who travel <b>to places of work in Spain and who depend by means of an explicit employment relationship</b> on a <b>company</b> established in a non-EU/<b>EEA country</b>.</p> <p>One of the following scenarios must apply:</p> <ul style="list-style-type: none"> <li>○ The temporary relocation takes place for and under the management of the foreign company subject to a contract between the latter and the recipient of the services or which is engaged in business in Spain, in the scenario set out in the Fourth Additional Provision of the Transnational Services Act (Ley 45/1999). <b>Relocations for training purposes are expressly excluded.</b></li> <li>○ When the temporary relocation is to places of work in Spain of the same company or of another company from the same group.</li> <li>○ When such temporary relocation affects highly skilled workers and its purpose is oversight or advice on works or services of companies based in Spain to be carried out abroad. <b>Relocations for training purposes are expressly excluded.</b></li> </ul>
Requirements	<ul style="list-style-type: none"> <li>○ Source of livelihood.</li> <li>○ Compliance with security requirements.</li> <li>○ Public or private health insurance with an insurer authorised to do business in Spain.</li> <li>○ Higher education qualification or equivalent, or at least 3 years' professional experience.</li> <li>○ <b><u>A prior and continuous employment relationship of more than 3 months with the company or corporate group.</u></b></li> </ul>	<ul style="list-style-type: none"> <li>○ Compliance with security requirements.</li> <li>○ The residence in the country/countries where the company is established must be stable and regular.</li> <li>○ The foreign worker must carry out his/her regular professional activity in the country or countries where the company relocating him/her is established.</li> <li>○ The worker <b>must have been engaged</b> in the activity <b>for at least one year</b> and have been with the <b>company</b> for at least <b>nine months</b>.</li> <li>○ The company relocating the worker must ensure that the applicable requirements and conditions of employment are met for its staff temporarily posted to Spain, in accordance with Ley 45/1999, of 29 November 1999.</li> </ul>

**INTRA-CORPORATE TRANSFER**

	<b>Entrepreneur support bill</b>	<i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i>
	<b>Intra-corporate transfer</b>	<b>Residence and work in the context of the provision of transnational services</b>
Processing periods and administrative silence	<p>Entry: 10 working days.</p> <p>Renewal: 20 working days. Positive silence.</p>	<p>Entry: 4 months (1 month consulate + 3 months Immigration Office). UGE processing: 40 days (10 working days consulate + 1 month UGE). All negative silence.</p> <p>Extension: 3 months. Positive silence.</p>
Scope	National.	<p>Activity:</p> <ul style="list-style-type: none"> <li>○ Processed by the UGE: limited by <b>activity</b>.</li> <li>○ Not processed by the UGE: limited by <b>activity</b>.</li> </ul>
Family	<p>Spouse and children under the age of 18 or those who are objectively incapable of providing for themselves for health reasons can make a joint application with the investor.</p> <p>Processing periods: 10 working days for visas and 20 working days for permits.</p>	<p>Foreign nationals may regroup when they have resided in Spain for one year.</p> <p>Processing periods: 75 days (1 month for visa + 45 days for permit). Negative silence.</p>
Other matters	<p>Legal concept: single permit.</p> <p>The National Employment Situation does not apply.</p>	<p>Legal concept: temporary residence and work permit.</p> <p>The National Employment Situation applies.</p> <p>The validity of the permit is linked to the activity. Except in the case of bilateral Social Security Agreements, permit + extension may not exceed two years in total.</p> <p>Changes in activity are not permitted.</p>

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**INTRA-CORPORATE TRANSFER**

	<b>Entrepreneur support bill</b>	<b><i>Ley Orgánica 4/2000 and Royal Decree 557/2011</i></b>
	<b>Intra-corporate transfer</b>	<b>Residence and work in the context of the provision of transnational services</b>
Group relocations	Planned management of a time-based quota of permits.	Not planned.