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SOME BREXIT ISSUES

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SOME BREXIT ISSUES

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Con las manos unidas ante los nuevos retos

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INMIGRACIÓN

SOME BREXIT ISSUES

1. DATES, REQUIREMENTS AND DEADLINES FOR SUBMITTING NEW RESIDENCY APPLICATIONS. VALIDITY TIMES. DOCUMENTATION REQUIRED.

In accordance with the provisions of the UK Withdrawal Agreement, UK nationals who were resident in Spain before 31 December 2020 have the rights of residence, freedom of movement and social security that are recognised in the Withdrawal Agreement. UK nationals arriving after that date will be subject to the general immigration regime under Spanish law.

1.1. UK nationals who were resident in Spain before 31 December 2020 and who hold a Certificate of Registration.

A UK national who was in Spain before 31 December 2020 and **has a Certificate of Registration** and wishes to obtain a residence document, must make an appointment and **present their application in person** at the police station established in their usual place of residence, where the certificate will be replaced by the new residence document which will be issued to them within the period indicated by the office.

a) If you are a holder of a temporary registration certificate with a legal residence in Spain of less than 5 years, you must submit the application at the police station by appointment, providing the following documentation:

- Application form for the document (form EX23)
- Valid passport or copy of the expired one. If the passport has expired, a copy of the passport and the renewal application must be provided.
- Form proving payment of the fees (Form 790. Code 012). The section corresponding to "Community Resident Registration Certificate or Residence Card of a family member of a Union citizen" must be ticked.

- 1 photograph in accordance with the requirements established in the national identity card regulations.

Validity = 5 years

Deadline: Applications to replace the certificate of registration may be submitted at any time.

b) If you are a holder of a temporary registration certificate with a legal residence in Spain of more than 5 years, you must submit the application at the police station by appointment, providing the following documentation:

- Application form for the document (form EX23)
- Valid passport or copy of the expired one. If the passport has expired, a copy of the passport and the renewal application must be provided.
- Form proving payment of the fees (Form 790. Code 012). The section corresponding to "Community Resident Registration Certificate or Residence Card of a family member of a Union citizen" must be ticked.
- 1 photograph in accordance with the requirements established in the national identity card regulations.

Validity = 10 years

Deadline: Applications to replace the certificate of registration may be submitted at any time.

c) If you are a holder of a **permanent registration certificate**, you must submit the application at the police station by appointment, providing the following documentation:

- Application form for the document (form EX23)
- Valid passport or copy of the expired one. If the passport has expired, a copy of the passport and the renewal application must be provided.

- Form proving payment of the fees (Form 790. Code 012). The section corresponding to "Community Resident Registration Certificate or Residence Card of a family member of a Union citizen" must be ticked.

- 1 photograph in accordance with the requirements established in the national identity card regulations.

Validity = 10 years

Deadline: Applications to replace the certificate of registration may be submitted at any time.

1.2. UK nationals who were resident in Spain before 31 December 2020 and who do not have a certificate of registration.

UK citizens who were in Spain before 31 December 2020 and **do not have a registration certificate,** must prove by any legally valid evidence (e.g. through their census certificate, rental contracts, etc.) that they meet the conditions to be beneficiaries of the Withdrawal Agreement, and that they were effectively resident in Spain before 31 December 2020 in accordance with the requirements set out in the Agreement.

UK nationals who have arrived in Spain after the transitional period and are beneficiaries of the Withdrawal Agreement will have **3 months to submit the application,** as established in the Joint Instruction of the Directorate General of Migration and the Directorate General of the Police, which determines the procedure for the issuance of the residence document provided for in Article 18.4 of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community. If the application is submitted after the **expiry of this time limit, the Aliens Office will assess the circumstances and reasons for non-compliance and will grant an additional period of time** within which to submit the application if the reasons for non-compliance are substantiated, subject to an assessment by the Aliens Office.

To obtain the residence document, you may access the procedure established for this purpose by submitting the application in person or through a duly authorised representative at the Aliens office of the province in which you reside or electronically. The interested party must follow the following steps:

FIRST STEP: application for the residence document at the aliens office in the province where you reside or will take up residence. This application can be made in person or electronically with a digital certificate.

Regarding the documentation to be provided, this is determined in the Order PRE/1490/2012 and is as follows: In all cases:

- Application form for the document (form EX20)
- Valid passport. In the event that it has expired, a copy of it and of the renewal application must be provided.
- Documentation proving that you were resident in Spain before 31/12/2020 and that you are within the scope of the Agreement.

Employed persons

- Employer's statement of employment or a certificate of employment. These documents must include, at least, data relating to the name and address of the company, tax identification and social security account code. In any case, the presentation of the employment contract registered in the corresponding Public Employment Service or document of registration, or situation similar to registration, in the corresponding Social Security regime will be accepted, although it will not be necessary to provide this documentation if the interested party consents to verification of said data in the files of the Social Security Fund.

Self-employed workers

- Proof that they are self-employed.

In any case, registration in the Census of Economic Activities or justification of setting up a business by means of registration in the Mercantile Registry or the document of registration or situation akin to registration in the corresponding Social Security scheme will be accepted, although it will not be necessary to provide this documentation if the interested party consents to verification of said data in the Files of the Social Security Fund (TGSS) or the Tax Agency (AEAT).

Persons who do not work in Spain

- Health insurance, whether public or private, contracted in Spain or in another country, as long as it provides coverage in Spain during your period of residence equivalent to that provided by the Spanish National Health System. In any case, pensioners shall be deemed to satisfy this condition if they can prove, by means of the corresponding certification, that they are entitled to health care at the expense of the State from which they receive their pension.

- Having sufficient resources for themselves and their family members not to become a burden on the social welfare system of Spain during their period of residence.

Students

- Enrolment in a public or private centre, recognised or financed by the competent educational administration.

- Health insurance, whether public or private.

- Affidavit that you have sufficient resources for yourself and the members of your family, so as not to become a burden on the social welfare of Spain during your period of residence.

UK national family member

- Passport of the UK national giving entitlement.

- Document showing the relationship to the UK national giving entitlement.

You will obtain a receipt **certifying your application, which will be sufficient to prove your legal residence status** until you receive your residence document.

SECOND STEP: Once the application has been granted, you must apply for your residence card to be issued at the appropriate police station (by appointment). **This procedure is face-to-face and personal** (no representation is allowed). In the same way that the collection of the same must be carried out by the interested party and presenting the valid passport.

The documentation to be provided will be:

- Residence document application form (form EX23).
- Valid passport of the applicant. If the passport has expired, a copy of the passport and the renewal application must be provided.
- Form proving payment of the fees (Form 790, Code 012, marking the section corresponding to "Community Resident Registration Certificate or Residence Card of a family member of a citizen of the Union").
- 1 photograph in accordance with the requirements established in the national identity card regulations.

Validity

- Temporary: 5 years if you have been in Spain for less than 5 years
- Permanent: 10 years if you have been in Spain for more than 5 years

2. Online APPLICATION SYSTEM: Mercurio (Mecury) System.

The Mercurio System is an application for submitting immigration applications online. This service allows the citizen, or their authorised representative, to submit their immigration applications electronically through a web portal hosted at the electronic headquarters of the Ministry of Finance and Public Administrations. The access address to the portal is as follows: https://sede.administracionespublicas.gob.es/mercurio/modoAcceso.html;jsessionid=E0A635CCCBC3A8DE592926AC15B001B7.appdmzmol1_19094_mercurion

The Mercurio System can be accessed privately as an interested party, the only requirement is to **have a digital certificate**. In addition, as shown in the image, the platform has individualised accesses to access personally (interested party), as an business agency, as a labour relations officer, or as a lawyer.

3. VALIDITY OF RESIDENCE CARDS AND THE GREEN SHEET, PREVIOUSLY GRANTED (permanent or non-permanent). PROCEDURE TO BE FOLLOWED TO UPDATE THEM.

UK nationals who have a certificate of registration (green sheet) can continue to reside in Spain. The interested party and their family members may request the issuance of a **residence document explicitly mentioning their status as beneficiaries of the Withdrawal Agreement**. However, we recommend you obtain the new residence document as it follows a model established at European level and **explicitly mentions your status as a beneficiary of the Withdrawal Agreement**. In addition, this new document is a physical card containing biometric elements which, among other things, makes it easier for the holder to carry out administrative procedures in Spain and even cross the external borders of the European Union. The residence card or the Registration Certificate **will continue to be valid as long as its validity is not exhausted,** which serve to prove legal residence in Spain after the end of the transitional period and therefore benefit from the provisions of the Withdrawal Agreement.

- In cases where the interested party has a temporary registration certificate with a legal residence in Spain of less than 5 years, a 5-year temporary residence document will be issued.

- In cases where the interested party has a temporary registration certificate with a legal residence in Spain for more than 5 years, a 10-year permanent residence document will be issued.

- In cases where the interested party is in possession of a temporary residence document for 5 years, a residence document will be issued for 10 years, automatically renewable every 10 years, and in the field corresponding to the Type of Permit the term “Permanent” will be entered.

4. MINIMUM INCOME FOR RESIDENCY APPLICATION. VARIATIONS PER FAMILY GROUP. ELEMENTS OF JUSTIFICATION OF THE MINIMUM ANNUAL INCOME.

Proof of sufficient income will be required if you **do not have a previous certificate of registration** and do not carry out a professional or employment activity in Spain. In this regard, those UK nationals and their family members who arrive in Spain after the end of the transitional period, i.e. from 1 January 2021, and who are not beneficiaries of the Withdrawal Agreement, will be subject to the general immigration regime. This general immigration regime is made up of Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration and its implementing regulations and the international mobility section of Law 14/2013, of 27 September, on support for entrepreneurs and their internationalisation.

Accordingly, everything related to the sufficient financial means that must be demonstrated for the purpose of obtaining non-profit residence is provided for in article 47 of the Aliens Regulations. Pursuant to this provision, foreigners must prove that they have, as a minimum, "an amount that represents monthly in euros 400% of the Multiplier for the Public Income Index (IPREM in Spanish), or its legal equivalent in foreign currency".

In addition, for each family member who is dependent on the foreign applicant, it must be demonstrated that they have "an amount that represents monthly in euros 100% of the IPREM, or its legal equivalent in foreign currency, amount to be accredited in addition" to 400% of the IPREM for the main foreign applicant.

The Multiplier for the Public Income Index 2021 has increased by 27.06 euros, after having been frozen for several years. The amounts for 2021 are as follows:

- Monthly IPREM: 564.90 Euros
- The annual IPREM (12 payments): 6,778.80 Euros

The IPREM for each member will be those shown in the following table:

Year 2021	Percentage	Monthly IPREM	Annual IPREM
	100%	€ 564.90	€ 6,778.80
Applicant	400%	€ 2,259.60	€ 27,115.20
Applicant + 1 relatives	500%	€ 2,824.50	€ 33,894.00
Applicant + 2 relatives	600%	€ 3,389.40	€ 40,672.80
Applicant + 3 relatives	700%	€ 3,954.30	€ 47,451.60
Applicant + 4 relatives	800%	€ 4,519.20	€ 54,230.40

The amounts expressed in the table will be those that must be demonstrated as minimum financial means for the purpose of obtaining temporary non-profit residency. Obviously the amount to be proven will vary depending on the number of people who intend to benefit from this authorisation. Article 47 of the Aliens Regulation gives 2 alternative options, which are:

a) Have sufficient financial means for the period of residence they are applying for (for example, have 26,000 euros in a bank account) or;

b) Proof of a source of regular income (this could be the income earned from renting a house, receiving a retirement pension, etc.).

Under Article 47.3 of the Aliens Regulations, "availability may be substantiated by any means of proof admitted in law, **including the presentation of property deeds, certified cheques or credit cards, which must be accompanied by a bank certificate substantiating the amount available as credit** on the aforementioned credit card". In addition, "if the financial resources come from shares or holdings in Spanish, mixed or

foreign companies based in Spain, the interested party must certify, by means of a **certificate from the said companies, that they do not carry out any employment activity whatsoever in said companies,** and must submit a sworn statement to that effect".

Accordingly, in most cases the availability of financial means is proven with bank documentation. Therefore, diplomatic missions or consular posts usually ask for the last 12 months' statements along with the average balance and the current balance.

On the other hand, Article 47.2 of the Aliens Regulation provides that the financial means must be sufficient for "the duration of the authorisation requested". Accordingly, in order to obtain the initial non-lucrative residency you must prove that you have **sufficient financial resources for 1 year**. This period shall be extended to 2 years in the case of a renewal of the authorisation in question.

5. RESIDENCY FOR SPOUSE AND CHILDREN. APPLICATION. JOINT JUSTIFICATION OF MINIMUM INCOME.

The exit of the United Kingdom from the European Union took place on 31 January 2020, whereby as of 1 February 2020 the United Kingdom became a third country.

The terms of the exit were regulated through the Withdrawal Agreement which entered into force on 1 February 2020. This contained a series of provisions to ensure that the effective exit of the United Kingdom would take place in an orderly manner. To this end, a transitional period was established, which would end on 31 December 2020.

A key aspect of this Withdrawal Agreement is the rights of residence regulated in Heading II for those persons who have been enjoying them before the end of the transitional period. On this basis, all UK nationals and their family members, third-country nationals, who reside in Spain before the end of this transitional period, will maintain their rights arising from application of EU law (except the right to vote and stand as candidates in elections to the European Parliament and the exercise of the EU Citizens' Legislative Initiative).

For those UK citizens arriving on or after 1 January 2021 who are not included in the application of the Withdrawal Agreement, the general immigration regime will apply, as the agreement reached between the UK and the EU does not include the free movement of persons.

Based on the above, from 1 January 2021 UK nationals in Spain will be in one of two situations:

- They shall be beneficiaries of the Withdrawal Agreement
- They shall be governed by the general provisions of the aliens regime

5.1. Nationals of the United Kingdom or their family members residing in Spain, beneficiaries of the Withdrawal Agreement.

The fundamental objective of the Withdrawal Agreement was that UK nationals and their family members who had been residing in Spain before the end of the transitional period would maintain their status derived from the application of EU law

(except for the right to vote and stand as candidates in elections to the European Parliament and the exercise of the EU Citizens' Legislative Initiative).

On this basis, the Withdrawal Agreement offered two possibilities for documenting the beneficiaries of the Agreement: (1) to establish a procedure of a constitutive nature, in which a new residence status had to be requested in the host State (Article 18(1)); (2) not to apply this procedure and to issue, if requested by the citizens, a residence document expressly identifying them as beneficiaries of the Agreement (18(4)).

Spain opted for this second possibility and, on this basis, on 4 July, it published the **Instruction** signed by the Ministry of Inclusion, Social Security and Migration, through the Directorate General of Migration, together with the Ministry of the Interior, through the Directorate General of the Police.

This procedure was launched on 6 July 2020 and differentiated between those who already had a registration certificate or EU citizen family card and those who were not in possession of them for various reasons.

It should be noted that the registration certificates and cards of family members of EU citizens will serve to prove the status of beneficiary of the Withdrawal Agreement after 31 December 2020 and therefore prove legal residence in Spain after the end of the transitional period.

However, the Government recommends **obtaining the new residence document, since it follows a model established at European level and explicitly mentions their status as beneficiaries of the Withdrawal Agreement**. In addition, this new document is a physical card containing biometric elements which, among other things, makes it easier for the holder to carry out administrative procedures and even cross the external borders of the European Union.

5.2 UK nationals or their family members who wish to reside in Spain from 1 January 2021 and who are not beneficiaries of the Withdrawal Agreement.

Those UK nationals and their family members who **arrive in Spain after the end of the transitional period, i.e. from 1 January 2021, and who are not beneficiaries of the Withdrawal Agreement** shall be subject to the general alien regime, as the

agreement on the future relationship reached between the UK and the EU does not contain provisions relating to the maintenance of the free movement of persons.

This general alien regime basically comprises Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration and its implementing regulations and the international mobility section of Law 14/2013, of 27 September, on support for entrepreneurs and their internationalisation. This legislation differentiates between the **following types of stay and residence:**

5.2.1. STAY OF LESS THAN THREE MONTHS

In cases in which the stay in Spain of a citizen of a Member State of the European Union or of another State party to the Agreement on the European Economic Area, whatever its purpose, has a duration of **less than three months, the possession of a valid passport or identity document,** by virtue of which the entry into Spanish territory has been made, **will be sufficient**, and this stay will not be calculated for the purposes derived from the residence status.

The provisions of the previous paragraph shall apply to family members of citizens of a Member State of the European Union or of another State party to the Agreement on the European Economic Area, who are not nationals of one of these States, and who accompany or join the citizen of one of these States, who are in possession of a valid passport and who have fulfilled the entry requirements.

5.2.2. RESIDENCE LONGER THAN THREE MONTHS

Citizens of a Member State of the European Union or of another State party to the Agreement on the European Economic Area and Switzerland have the right **of residence in Spanish territory for a period of more than three months if they are in any of the following situations:**

a. They are employed or self-employed in Spain.

b. They have, for themselves and their family members, sufficient resources to avoid becoming a burden on social welfare in Spain during their period of residence, as well as public or private health insurance covering all risks in Spain. The assessment of the sufficiency of financial means will be carried out on an individual basis and, in

any case, taking into account the personal and family situation of the applicant. Sufficient proof of compliance with this requirement will be considered to be the possession of resources that are greater than the amount established each year by the General State Budget Law to generate the right to receive a non-contributory benefit.

c. They are students and are enrolled in a public or private centre, recognised or financed by the competent educational administration, with a training purpose; and they have public or private health insurance that provides full coverage in Spain and guarantees that they have sufficient resources for themselves and their family members so as not to become a burden on the social welfare of the Spanish State during their period of residence.

d. They are family members accompanying or joining a citizen of a Member State of the European Union or of another State party to the Agreement on the European Economic Area or Switzerland who satisfies the conditions set out in one of the foregoing cases. The relative may be:

    1. In the case of a student's family member, the student's spouse or common-law partner or the children of the student and the student's spouse or partner.

    2. In all other cases, the spouse or common-law partner, their direct descendants and those of their spouse or common-law partner who are under 21 years of age or disabled or over that age and who live with them, and their direct ascendants or those of their spouse or registered partner who live with them.

This right of residence is also applicable to family members, whatever their nationality, if they are accompanying or joining a national of a Member State of the European Union or of another State party to the Agreement on the European Economic Area or of Switzerland who satisfies the conditions set out in points "a", "b" or "c" above.

In the case of citizens of the European Union or of another State party to the Agreement on the European Economic Area or of Switzerland who are in the case of the above-mentioned letter "c" (students) and fulfil the conditions set for their residence in such status, only the spouse or common-law partner registered in a public register and dependent children, regardless of their nationality, shall have the right of residence as members of their family.

Likewise, a citizen of the European Union or of another State party to the Agreement on the European Economic Area who is no longer an employed or self-employed person shall retain the status of employed or self-employed person in the following cases:

1. If you suffer a temporary incapacity resulting from an illness or accident;

2. If, having become involuntarily unemployed and this is duly substantiated, having been employed for more than one year, you have registered with the competent employment service in order to find a job;

3. If, having become involuntarily unemployed at the end of a fixed-term employment contract of less than one year or having been involuntarily unemployed for the first twelve months, and this is duly substantiated, you have registered with the competent employment service with a view to finding a job. In this case, the worker's status shall be maintained for not less than six months;

4. If you are following vocational training that is related to your previous employment, unless you are involuntarily unemployed.

Interested parties will be **obliged to apply** in **person** to the Aliens Office of the province where they intend to stay or take up residence or, failing that, to the corresponding Police Station, to be entered in **the Central Register of Aliens**.

The application must be submitted within **three months from the date of entry into Spain,** and a **registration certificate** will be issued immediately, stating the name, nationality and address of the person registered, their foreigner's identity number, and the date of registration.

DOCUMENTATION

Together with the application form (EX-18), the applicant's valid passport or national identity card or, if it has expired, a copy of it and a copy of the renewal application, as well as the following documentation (original and copy), depending on the circumstances of the applicant, must be submitted:

- **Employed** persons must provide a declaration of employment from the employer or a certificate of employment. In any case, the presentation of the employment contract registered in the corresponding Public Employment Service or document of registration, or situation similar to registration, in the corresponding Social Security regime will be accepted, although this documentation will not be necessary if the interested party consents to verification of said data in the files of the Social Security Fund.

- **Self-employed** persons shall provide proof that they are self-employed. In any case, registration in the Census of Economic Activities or justification of setting up a business by means of registration in the Mercantile Registry or the document of registration or situation akin to registration in the corresponding Social Security scheme will be accepted, although it will not be necessary to provide this documentation if the interested party consents to verification of said data in the Files of the Social Security Fund (TGSS) or the Tax Agency (AEAT).

- **Persons who do not work in Spain** must provide documentation substantiating compliance with the following two conditions:

  - Health insurance, whether public or private, contracted in Spain or in another country, as long as it provides coverage in Spain during your period of residence equivalent to that provided by the Spanish National Health System. In any case, pensioners shall be deemed to satisfy this condition if they can prove, by means of the corresponding certification, that they are entitled to health care at the expense of the State from which they receive their pension.

  - Having sufficient resources for themselves and their family members not to become a burden on the social welfare system of Spain during their period of residence.

Proof of sufficient resources will be carried out by any means admitted by law, such as property deeds, certified cheques, documentation justifying the obtaining of capital income or credit cards, providing in this last case an updated bank certificate that accredits the amount available as credit on the aforementioned card.

The assessment of sufficient funds must be carried out on an individual basis, and in any case, taking into account the personal and family situation of the applicant.

Sufficient proof of compliance with this requirement will be considered to be the possession of resources that are greater than the amount established each year by the General State Budget Law to generate the right to receive a non-contributory benefit, taking into account the personal and family situation of the interested party.

- **Students**, including those in vocational training, must present documentation proving compliance with the following conditions:
  - Enrolment in a public or private centre, recognised or financed by the competent educational administration.
  - Health insurance, public or private, contracted in Spain or in another country as long as it provides full coverage in Spain. However, this condition will be considered to be fulfilled if the student has a European Health Insurance Card valid for the entire period of residence and it entitles them to receive only those health benefits that are medically necessary.
  - Affidavit that you have sufficient resources for yourself and the members of your family, so as not to become a burden on the social welfare of Spain during your period of residence.

Participation in European Union programmes that favour educational exchanges for students and teachers will be considered sufficient proof of fulfilment of these requirements.

Family members who are nationals of a Member State of the European Union or of another State party to the Agreement on the European Economic Area and Switzerland must apply for registration **in the Central Register of Aliens** in the manner described above:

- Updated and, if applicable, certified documentation substantiating the family relationship with the Union citizen.
- Documentation proving economic dependence.

- Documentation proving that the qualifying relative is either employed or self-employed, has sufficient means of subsistence and health insurance, or is a student, has sufficient means for themself and their family members, and has health insurance.

Note on the validity of foreign public documents: To check the necessary requirements regarding the legalisation and translation of foreign public documents you may consult the information sheet of the General Secretariat of Immigration and Emigration.

5.3. Residence of a non-EU family member of an EU citizen.

Family members of a citizen of a Member State of the European Union or of a State party to the Agreement on the European Economic Area or Switzerland, included in the scope of application of *Royal Decree 240/2007, of 16 February, on the entry, free movement and residence in Spain of citizens of the Member States of the European Union and other States party to the Agreement on the European Economic Area* who do not hold the nationality of one of said States, when accompanying or joining them, may reside in Spain for a period of more than three months, subject to the obligation to apply for and obtain a **"residence card for family members of a citizen of the European Union"**.

The **application** for the residence card of a family member of a Union citizen must be presented in person by the family member within **three months from the date of entry into Spain,** at the Alien Office of the province where the interested party intends to stay or take up residence or, failing that, at the corresponding Police Station. In any case, a receipt will be given immediately to substantiate presentation of the application for the card, which will be sufficient to accredit their situation of legal stay until the delivery of the card. The possession of the receipt may not constitute a prerequisite for the exercise of other rights or the completion of administrative procedures, provided that the beneficiary of the rights can prove their situation by any other means of proof.

Together with the application form (EX-19) for the residence card of a family member of a Union citizen, duly completed and signed by the family member of the Union citizen, the following **documents** (original and copy) must be submitted **in person** by the family member:

- Valid full passport. If it has expired, a copy of it and of the renewal application.

- Documentation proving the existence of a family relationship with the citizen of the Union or of the European Economic Area.
- In the case of an unregistered couple, documentation proving that they are a stable couple that attests to the existence of a lasting bond, as well as proof of the length of time they have been living together or, if applicable, a birth certificate of the offspring they have in common.
- If it is a child of a citizen of the Union or of the European Economic Area or of their spouse or registered partner over 21 years of age, documentation substantiating their status as a dependent family member.
- If they are an underage child and do not reside in Spain with both parents, documentation accrediting their status as a dependent relative or dependent of the Union citizen or of their spouse or registered partner.
- If they are a relative in the ascending line of the Union citizen or their spouse or registered partner, proof of their status as a dependent family member.
- National ID Card of the Spanish citizen or registration certificate of the Union citizen they are accompanying or with whom they are going to meet.
- In the case of other family members, as referred to in article 2.bis.1.a) of Royal Decree 240/2007, of 16 February, documents accrediting dependency, the degree of kinship and, if applicable, the existence of serious health or disability reasons or cohabitation.
- Three recent colour photographs, white background, passport size.
- Fees for the legally established amount.

Depending on the status of the citizen of the Union or of the European Economic Area:

- If you are an employee: you may provide any of the following documents:
    - Employer's declaration of recruitment or certificate of employment, including at least the name and address of the company, tax identification and social security account code.

- Employment contract registered with the Public Employment Service, or disclosure of the contract and its conditions through the CONTRAT@ platform.
- Document of registration or situation akin to registration in the corresponding Social Security scheme or consent to the verification of the data in the files of the Social Security Fund.

- A self-employed person may provide any of the following documents:
  - Registration in the Census of Economic Activities.
  - Justification of its establishment by registration in the Mercantile Registry.
  - Document of registration or situation akin to registration in the corresponding Social Security scheme, or consent to the verification of the data in the files of the Social Security Fund or the Tax Agency.

- If you do not work in Spain, you must provide the following documents:
  - Documentation proving you have health insurance, whether public or private, contracted in Spain or in another country, as long as it provides coverage in Spain during your period of residence equivalent to that provided by the Spanish National Health System. Pensioners satisfy this condition by providing certification that they have health care at the expense of the State from which they receive a pension.
  - Documentation that proves sufficient resources for the Union citizen and their family members for the period of residence in Spain. It may be substantiated by any means of proof admitted by law, such as property deeds, certified cheques, documentation justifying the obtaining of capital income or credit cards with bank certification that accredits the amount available as credit on the aforementioned card.

- If you are a student you must present the following documentation:
  - Registration of the educational centre, public or private, recognised or financed by the competent educational administration.

- Documentation proving that you have public or private health insurance. You will be able to provide a European Health Insurance Card valid for the period of residence and entitling you to receive the medically necessary health benefits, taking into account the nature of the benefits and the expected duration.

- Affidavit that you have sufficient resources for yourself and your family members for your period of residence in Spain.

Presentation of documentation proving participation in a programme of the European Union that favours the educational exchange for students and teachers will be considered sufficient for the fulfilment of the requirements.

Note on the validity of foreign public documents: To check the necessary requirements regarding the legalisation and translation of foreign public documents you may consult the information sheet of the General Secretariat of Immigration and Emigration.

The residence card of a family member of a Union citizen must be **issued** within **three months following submission of the application**. The favourable resolution will have backdated effects, and the residence status will be understood to be in force from the accredited date of entry into Spain as a family member of a citizen of the Union.

The residence card of a family member of a Union citizen shall be valid for **five years** from the date of issue or for the planned period of residence of the Union citizen or of a State party to the Agreement on the European Economic Area, if this period is less than five years. In the event that it is necessary to **renew** the residence card before acquiring the right to reside on a permanent basis, such renewal will be processed in accordance with the foregoing provisions, although in the case of ascendants and descendants it will not be required to provide documentation proving the existence of the family relationship that gives the right to the issuance of the card.

5.4. Maintaining in a personal capacity the right of residence of family members in the event of death, departure from Spain, annulment of the marriage, divorce or cancellation of the registration as a registered partner, in relation to the holder of the right of residence.

The death of a citizen of a Member State of the European Union or of a State party to the Agreement on the European Economic Area, their departure from Spain, or the annulment of the marriage, divorce or cancellation of the registration as a registered partner, **shall not affect the right of residence of their family members who are citizens of one of these States**.

The **death** of a citizen of a Member State of the European Union or of a State party to the Agreement on the European Economic Area, **in the case of family members who are not citizens of one of those States,** shall not affect their right of residence either, provided that they have resided in Spain, as family members, prior to the death of the holder of the right. Family members shall be obliged to notify the competent authorities of the death.

The **departure** from Spain or death of a citizen of a Member State of the European Union or of a State party to the Agreement on the European Economic Area shall not entail the loss of the right of residence of their children or of the parent who has effective custody of them, regardless of their nationality, provided that said children reside in Spain and are enrolled in an educational institution to study, until the completion of their studies.

In the event of **annulment of the marriage, divorce or cancellation of the registration as a registered partner** of a national of a Member State of the European Union or of a State party to the Agreement on the European Economic Area with a national of a State which is not, the latter shall be obliged to notify the competent authorities of this circumstance. To retain the right of residence, one of the following cases must be proven:

1. Duration of at least three years of the marriage or registered partnership situation, until the start of the legal proceedings for annulment of the marriage, divorce or cancellation of the registration as a registered partner. At least one of the years must be accredited as having been spent in Spain.

2. Granting, by mutual agreement or through a court decision, of custody of the children of the EU citizen to the ex-spouse or ex-registered partner who is not a citizen of a Member State of the European Union or of a State party to the Agreement on the European Economic Area.

3. Existence of particularly difficult circumstances such as:

a. Having been a victim of gender violence during the marriage or registered partnership, a circumstance that will be considered accredited provisionally when there is a protection order in their favour or a report from the Public Prosecutor's Office indicating the existence of signs of gender violence, and definitively when there has been a court decision from which it can be deduced that the alleged circumstances have arisen.

b. Having been subjected to human trafficking by their spouse or partner during the marriage or registered partnership situation, a circumstance that will be considered provisionally accredited when there is a judicial process in which the spouse or partner holds the status of accused and their relative as a possible victim, and definitively when there has been a judicial decision from which it can be deduced that the alleged circumstances have occurred.

4. Judicial resolution or mutual agreement between the parties that determines the right of access to the underage child of the ex-spouse or ex-registered partner who is not a citizen of a Member State of the European Union or of a State party to the Agreement on the European Economic Area, when said underage child resides in Spain and said resolution or agreement is in force.

6. TYPES OF VISA (lucrative and non-lucrative). LENGTH OF STAY FOR NON RESIDENTS.

6.1. Short-term stays.

British citizens do not require a visa to enter the Schengen area for stays of up to 90 days in any 180 day period. British nationals will therefore be able to travel to Spain without a visa, although in the future they will need an electronic entry authorisation (ETIAS).

In turn, family members of British citizens will no longer benefit from the Community regime and will have to apply for the corresponding Schengen visa, subject to payment of the visa fee and compliance with the legal requirements. Exceptions are family members of British nationals who have settled in Spain or another Member State before 31 December 2020, who may apply for an EU family member visa.

6.2. Stay for studies of more than 90 days and residence.

British nationals and their family members will be subject to the general alien regime and will require a visa to stay in Spain for more than 90 days in any 180-day period, as well as for certain activities lasting less than 90 days: work, professional, artistic or religious activities. On the other hand, British nationals and their family members may benefit from the regime set out in Law 14/2013, of 27 September, to support entrepreneurs and their internationalisation. **With regard to the different visas provided for in the legislation on aliens,** in accordance with article 25.bis of Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration, are as follows:

a) Transit visa, which entitles the holder to transit through the international transit zone of a Spanish airport or to cross Spanish territory. This visa shall not be required in cases of transit of a foreigner for the purposes of repatriation or removal by air requested by a Member State of the European Union or by a third country that has signed an international agreement with Spain on this matter.

(b) a stay visa, which entitles the holder to an uninterrupted stay or successive stays for a period or a sum of periods whose total duration does not exceed three months per six-month period from the date of first entry.

c) Residence visa, which entitles the holder to reside without exercising work or professional activity.

d) Residence and work visa, which authorises entry and stay for a maximum of three months and for the commencement, within that period, of the employment or professional activity for which they were previously authorised. During this time, the worker must be registered with the Social Security, which will make the residence and work permit, whether self-employed or employed, effective. If after the period has elapsed the foreigner has not been registered, they will be obliged to leave national territory, otherwise incurring in the violation contemplated in article 53.1.a) of this Law.

e) Seasonal residence and work visa, which entitles the holder to work as an employee for up to nine months in a period of twelve consecutive months.

f) Study visa, which entitles the holder to stay in Spain to carry out courses, studies, research or training work, student exchanges, non-work internships or volunteer services, which are not remunerated through employment.

g) Research visa, which entitles the foreigner to stay in Spain to carry out research projects within the framework of a hosting agreement signed with a research organisation.

7. DRIVING LICENCES: PROCEDURE FOR EXCHANGE AND VALIDITY.

The UK effectively ceased to be a member of the European Union from 31 December 2020, so all traffic arrangements within the EU are no longer valid for holders of UK-issued driving licences:

From 1 January 2021, the general regulations will apply and licences issued by the British authorities will only be valid for driving in Spain for six months, from the date of entry of the holder into Spain or from the date of obtaining legal residence, and will not be valid for driving in Spain from that time onwards.

For British driving licence holders who are resident in Spain on 31 December 2020, the six-month period will start to run from 1 January 2021.

For holders of a UK driving licence who have applied for exchange, replacement or renewal before 31 December 2020 you are reminded that they will be processed provided they have been verified by the UK authorities before 1 January 2021. Applications submitted on or after 30 December 2020 will not be processed.

If you have not applied for an exchange before 31 December 2020 you will have to obtain a new Spanish driving licence.

7.1. Who is eligible.

Any resident in Spain with a driving licence that was issued in the UK. The application for the exchange must be made by the licence holder or any person authorised on their behalf.

To authorise another person to act on your behalf, you can designate a representative through our Power of Attorney Register.

You can also go in person as long as you have the original ID card and a document signed by the interested party authorising you to make the application, and stating that it is free of charge. To do so, download and fill in the DGT authorisation form “Granting of representation”.

If the procedure is going to be carried out by another person on your behalf, when requesting the appointment at the 060, you must indicate the National ID Card of the interested party and also that of the authorised person.

7.2. Exchange procedure.

If you have submitted an application for the exchange, replacement or extraordinary renewal of a UK driving licence before 31 December 2020 you have the opportunity to exchange your licence under the same pre-BREXIT conditions.

In person, at the Traffic Headquarters or Office where the previous application for extraordinary exchange will be handed in:

You will be able to make an appointment 3 working days after submitting your application and during the first 6 months of 2021 if no anomaly has been reported.

The appointment must be made at the Traffic Office where the application for the exchange was made with 'Type of procedure': "Office procedures" and then in 'Area' the area of your traffic office referring to drivers.

On the day of the appointment, you must go in person to the offices and provide all the documentation requested and a prior check will be made to ensure that the application was made in due time and form.

7.3. Deadline for submission.

You can request an appointment to formalise the procedure from 3 working days after submitting the previous application to obtain the extraordinary exchange and during the first 6 months of 2021 if no anomaly has been reported.

The appointment must be made at the Traffic Office where the application for the exchange was made with 'Type of procedure': "Office procedures" and then in 'Area' the area of your traffic office referring to drivers.

The 6-month grace period during which driving in Spain with a British licence will be allowed after BREXIT and the possibility of obtaining an exchange, replacement or renewal of the licence if the application was made before 31 December 2020, guarantee

that you will be able to drive in Spain with full guarantees as long as you complete the procedure within the 6-month period provided for this purpose.

7.4. Necessary documentation.

In order to formalise the procedure, the following documentation must be presented:

- Application for exchange completed on an official form, including a declaration that you have not been deprived of the right to drive motor vehicles and mopeds by a court decision and that you do not hold another EU or EEA licence of the same class as the one applied for or which has been restricted, suspended or cancelled.
- Proof of identity and residence: Original in force to prove identity and residence: ID card, residence card or passport in force and any other document requested by the Traffic Office where the application for exchange is processed.

On the official form you can expressly authorise the DGT to check your registration and IAE address online. However, if the DGT does not obtain valid information, you will have to correct it by providing documentation.

- Valid foreign driving licence to be exchanged.
- Number or proof of payment of the corresponding fee (see section 'Cost of the procedure').
- Original up-to-date 32 x 26 mm colour photograph with plain background, taken from the front with your head uncovered and without dark glasses or any other garment that may prevent or hinder your identification.
- If your hair is covered by religion, veiled photographs will be accepted, but the oval of your face must be completely uncovered from hairline to chin, so that it does not prevent or hinder your identification.

COST OF THE PROCEDURE

- To exchange a driving licence, fee 2.3 of 28.58 euros has to be paid.
- For the replacement of a UK licence, fee 4.4 of 20.60 euros is payable.
- To renew the permit or licence, fee 4.3 of 24.34 euros must be paid.

If, for medical reasons, the extension is for a shorter period of time, the prices of the fees will be as follows:

- Up to **4 year:** Fee 4.3.4 of 19.47 euros
- Up to **3 year:** Fee 4.3.3 of 16.60 euros
- Up to **2 year:** Fee 4.3.2 of 9.74 euros
- Up to **1 year:** Fee 4.3.1 of 4.87 euros

The renewal procedure is free of charge for those over 70 years of age.

7.5. Means of payment.

1. By internet, through the fee payment application. When confirming the purchase you will need a valid digital certificate or electronic ID.

You can pay with a credit or debit card from a financial institution that adheres to the payment of fees with card or by debit to a bank account. Please note that you must be the holder, co-owner or be authorised in your bank to authorise the charge of the amount of the payment of the fees.

The electronic payment can be made before carrying out the procedure and then download the receipt of the fee paid where you can find the fee number to apply it to the procedure.

2. From the miDGT app, a DGT application for mobile phone and tablets. You can check which fee you need and purchase it, as well as check the fees you have purchased, both the previous ones and those that have been purchased but not yet used. You can consult this page for further information and to download the application for free for both Android and iOS.

3. In person:

- **At any Traffic Headquarters or Office** with any credit or debit card. You can pay directly at the time of the procedure itself. Cash payment is not accepted in the offices.

- **At any financial institution that adheres to the payment of fees.** You can choose to pay in cash or by direct debit to your bank account. In this case, a self-assessment form must be completed in accordance with form 791.

Form 791 can be obtained at the Traffic Headquarters or online, through the same application for electronic payment of fees and downloading of form 791 without the need for an electronic certificate.

The application will generate three copies: one for the holder, one for the Administration and one for the collaborating financial institution. You have to print it and follow the next steps:

1. Enter the bank account you wish to debit at the foot of the page. This form of payment is exclusively for the payment of fees and is charged to your account and in cash.

2. Following payment, the financial institution will keep the sheet "Copy for the collaborating institution" and will hand over the other two with the signature or authorised stamp, or mechanical validation of the institution.

3. Subsequently, the duly validated "Copy for the Administration" must be presented at the Traffic offices.

At that time, the manager of the Traffic office will deliver the corresponding fees paid in the Bank, to be applied in the appropriate procedures. The "Copy for the interested party" serves as proof of payment made to the financial institution.

Please note: each self-settlement form 791 has a receipt number that is repeated on all three copies. You must download all three copies of the form each time you wish to make a payment, as the receipt numbers are unique. **Forms 791 cannot be photocopied, nor can they be submitted several times; they can only be used once for the amount of the form and to acquire the fees indicated therein.**

7.6. Regulation.

- Royal Decree-Law 38/2020, of 29 December adopting measures to adapt the United Kingdom of Great Britain and Northern Ireland to its status as a third State

following the end of the transitional period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 31 January 2020.

- Royal Decree 818/2009, approving the General Regulations on Drivers
- Directive 2006/126/EC of the European Parliament of 20 December 2006 on driving licences.
- Commission Directive (EU) 2016/1106 of 7 July 2016 amending Directive 2006/126/EC of the European Parliament and of the Council on driving licences.

8. CONTACT CHANNELS FOR ANY QUESTIONS YOU MAY HAVE. WHERE TO APPLY FOR RESIDENCE AND VISAS.

British Embassy in Madrid

Address Torre Espacio Paseo de la Castellana 259D 28046 Madrid Spain

Contact form: https://www.contact-em...

Tel: +34 917 146 300

Fax +34 917 146 301

When applying for residence, you must register both in the central register of aliens ('registro central de extranjeros') and in your local town hall ('padrón municipal'). Children must also be registered in both systems.

8.1. UK citizens living in Spain before 1 January 2021.

On 6 July 2020, the Spanish government introduced a new residency document for UK nationals living in Spain who have rights under the Withdrawal Agreement: the Foreigner ID Card (TIE). This biometric card explicitly states that it has been issued to the cardholder under the terms of the Withdrawal Agreement.

All UK citizens legally resident in Spain before 1 January 2021 are eligible to apply for this card.

UK citizens registering as residents after 6 July 2020

If you register as a resident after 6 July 2020 but were living in Spain before 1 January 2021, a 2-step process must be followed to obtain the TIE. If you meet the requirements and your application is approved, the TIE will be issued. Children must also register and obtain their own TIE.

STEP 1: SENDING RESIDENCY APPLICATION

You must apply for residency at the immigration office (Oficina de Extranjeros) in the province where you live.

It can be done electronically (if you have a digital signature 'digital signature'), in person by appointment at the immigration office or by an external representative of your choice who can submit the application, electronically or in person, on your behalf.

The following documentation must be provided:

- application form EX20
- passport
- documentation proving your residence in Spain before 1 January 2021
- documentation proving that you meet EU residency criteria for income and medical care

If applying in person, many immigration offices will also require that photocopies of official documents, such as a passport, be provided at the appointment.

Submitting your application electronically.

You can submit the residence application and supporting documents using the online platform of the Spanish administration (Sede electrónica) as long as you have a digital signature:

- enter the online portal
- click on 'continue new application'.
- choose 'EX-20 - Residence document Article 50 TEU for UK nationals (issued in accordance with Article 18(4) of the Withdrawal Agreement)'.

Application in person.

To submit the application and documents in person, you must first make an appointment at the immigration office. In many provinces, this must be done online through the public administration website:

- choose province
- select 'procedures at aliens offices' (if this option is available)

- choose the option 'Procedure for the documentation of UK nationals (Brexit)'.

In some regions, the latter option is not available and first-time applicants must choose 'request authorisations' to request an appointment.

However, in the following regions you must contact the immigration office by phone or email.

- Malaga - call +34 95298 04 60 and select OPTION 5 to request an appointment.
- Seville - call +34955 56 94 96 or send an email to cita_previa_extranjeria.sevilla@correo.gob.es to request an appointment
- Barcelona - email brexit.barcelona@correo.gob.es to request an appointment
- Madrid - send by e-mail the appointment request form, the EX20 application form and its supporting documentation supporting documentation to citaprevia_extranjeria.madrid@correo.gob.es
- Valencia - send by e-mail the EX20 application form and its supporting documents supporting documents to citaextran.valencia@correo.gob.es

If you are not sure how to make an appointment, contact the immigration office in your province.

STEP 2: APPLY FOR THE TIE

Once your application for residency has been approved by the immigration office, you will need to obtain a TIE from the national police.

You must request an appointment online.

- choose province
- then 'national police force procedures' (if this option is available)
- then 'Police Issue card associated with the Withdrawal Agreement for British citizens and their families'.

You must attend this appointment at the police station in person with the following documentation:

- application form EX23
- passport
- proof of payment of the fee (by means of form form 790, code 012- choose the option 'certificate of registration as a Community resident'). Currently, this fee cannot be paid online.
- photograph (you must ensure that it complies with the requirements of the Spanish administration)

Many police stations will also require photocopies of official documents, such as a passport, to be provided at the appointment.

You must return to the police station with a valid passport to pick up the TIE once it is ready.

8.2. If you registered before 6 July 2020.

If you registered for residency before 6 July 2020 and have a green paper residency certificate, you do not have to take action. The green certificate (A4 size or credit card) is still valid and proves entitlement under the Withdrawal Agreement.

It can be exchanged for the new TIE if desired. The Spanish government recommends obtaining the TIE because it is more durable and can simplify some administrative processes. If you wish to exchange the green paper certificate for the TIE, there is no deadline to do so.

To start the process you must request an online appointment.

- select province
- then 'national police force procedures' (if this option is available)
- then 'Police Issue card associated with the Withdrawal Agreement for British citizens and their families'.

You must attend this appointment at the police station in person with the following documentation:

- application form EX23
- passport
- proof of payment of the fee (by means of form form 790, code 012- choose the option 'certificate of registration as a Community resident'). Currently, this fee cannot be paid online.
- photograph (you must ensure that it complies with the requirements of the Spanish administration)

Many police stations will also require you to provide photocopies of official documents, such as your passport, at your appointment.

You must return to the police station with a valid passport to pick up the TIE once it is ready.

8.3. Validity and renewal of residence documents.

If you apply for the TIE and have been resident in Spain for less than 5 years, a temporary TIE will be issued, valid for 5 years. You can apply for a permanent TIE as soon as you have been legally resident in Spain for 5 years. You do not have to wait until the original card has expired.

If you apply for the TIE and have resided in Spain for more than 5 years, a permanent TIE will be issued, valid for 10 years.

The TIE card must be renewed if it is about to expire. It must be done in the month before or within 3 months after its expiry date.

8.4. Visas

The visa must be applied for in person at the Spanish Diplomatic Mission or Consular Office in whose demarcation the applicant legally resides. If there is no Spanish

Diplomatic Mission or Consular Office in a given country, an application will be made to the Diplomatic Mission or Consular Office that represents Spain in that country.

At the time of submitting the visa application, the corresponding fee must be paid by the established method of payment. This amount will not be refunded in case of visa refusal. The basic visa fee is 80 euros for applicants aged 12 and over, 40 euros for children aged 6 to 11 and free of charge for applicants under the age of 6. Check with the Diplomatic Mission or Consular Office where the visa is requested for the existence of exemptions or reduced fees, applicable by virtue of international regulations or agreements. In the case of applications submitted to the visa outsourcing company, a service fee will also be payable and, on a voluntary basis, additional services may be accessed at an extra cost to the applicant.

Short-stay visa applications shall be processed within 15 calendar days of the date on which the application was lodged. This period may be extended to a maximum of 45 calendar days in specific cases, in particular where a more detailed examination of the application is necessary.

If the visa is refused, the applicant shall be notified by means of a standard form indicating the reason for the refusal. In this case, a contentious-administrative appeal may be lodged with the High Court of Justice of Madrid within two months of the date of notification. Optionally, an appeal for reconsideration may be lodged with the same diplomatic mission or consular post within one month of the date of notification of the refusal.

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