

# ***Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State***

## ***Deliverable B.II Investors' Residence Schemes in Spain***

JUST/2016/RCIT/FW/RIGH/0152 (2017/06)



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The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

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## I. GENERAL BACKGROUND

### ■ *Legal background*

Spain has operated residence schemes since 2013, when it adopted **Law 14/2013**, of 27 September, on the support to entrepreneurs and their internationalisation (Law 14/2013).<sup>1</sup> According to the Preamble of Law 14/2013, its adoption was instigated by the “profound economic crisis that Spain has been suffering, with acute social consequences”. Law 14/2013 was, thus, adopted to enhance the entrepreneurial culture, initiative and education in Spain by creating a favourable legal, institutional and social framework under which new undertakings can set up and flourish. Such framework is essential to encourage investment and productivity.<sup>2</sup>

Law 14/2013 aims to **simplify and grant clarity to the legal framework applicable to the creation and regulation of undertakings**, until then scattered in an array of commercial legislation at EU, national and Autonomous Community Level.<sup>3</sup> This legal framework is unquestionably linked to the immigration policies, as the number of economic immigrants has been on the rise.<sup>4</sup> By the time Spain adopted Law 14/2013, a number of OECD countries had already adopted laws and policies to encourage foreign investment and increase competitiveness and it is in this same context that Law 14/2013 was adopted.<sup>5</sup>

Although Law 14/2013 regulates entrepreneurial schemes (Titles I-IV, Articles 4-49), **Title V** of the same Law (Articles 61-76) also includes **rules on the internationalisation of the Spanish economy**. This Title V is divided into two sections, the first one on encouraging internationalisation and the second on international mobility, regulating specific cases in which the granting of visas and residence authorisations is facilitated and streamlined for economic interest reasons. Title V specifically dedicates **Chapter II of the second section (Articles 63-67) to investors (*inversores*)**, setting the rules for, inter alia, the residence permit<sup>6</sup> they can apply for.

**Before the adoption of Law 14/2013, there was no specific legislation applicable to investors**, adapting to their needs and specific characteristics. Therefore, foreign investors who wished to enter and reside in Spain before Law 14/2013 had to resort to the rules of the general legislation on the rights and freedoms of foreigners in Spain and their social integration (the Spanish law on aliens, Organic Law 4/2000, LOEX).<sup>7</sup> In particular, investors fell under the framework of **residence permits for non-**

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<sup>1</sup> Law 14/2013, of 27 September, on the support to entrepreneurs and their internationalisation (*Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización*), Official State Gazette 233 of 29 September 2013, BOE-A-2013-10074, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2013-10074> (Law 14/2013).

<sup>2</sup> Preamble of Law 14/2013, Part I.

<sup>3</sup> Preamble of Law 14/2013, Part I.

<sup>4</sup> Preamble of Law 14/2013, Part I.

<sup>5</sup> Preamble of Law 14/2013, Part I.

<sup>6</sup> It should be noted that under the Spanish migration legislation, third-country nationals can apply either for visas or for authorisations (*autorizaciones*), which can be of different types (e.g. stay visas, temporary residence visa, residence and work authorisations, self-employment authorisations). While visas are required for the entry in the Spanish territory, authorisations are applied for after the third-country has already entered the Spanish territory to extend their stay and, where applicable, allow them to work. The Spanish migration legislation uses the term ‘permit’ (*permiso*) in a broader sense, covering both visas and authorisations. This is the meaning in which it is used in this Report.

<sup>7</sup> Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration (*Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*), Official State Gazette No. 10/2000 of 12 January 2000, BOE-A-2000-544, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2000-544> (LOEX) (last amended in 2009). The LOEX is developed by Royal Decree 557/2011, of 20 April, adopting the Regulation of Organic Law 4/2000, on the rights and freedoms of foreigners in Spain and their social integration (*Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social*), Official Gazette No. 103/2011 of 3 April 2011, BOE-A-2011-7703, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2011-7703> (RELOEX) (last amended in 2009).

**profit activities** which, inter alia, required continued physical presence in Spain.<sup>8</sup>

With Law 14/2013, foreign investors can now apply to two specific types of residence permits:

- An **investors' residence visa**;<sup>9</sup> and
- A **residence authorisation for investors** (referred to in this Report also as investors' residence authorisation).<sup>10</sup>

While the visa is necessary for the entry of the foreign investor in the Spanish territory,<sup>11</sup> the residence authorisation is applied once the foreign investor has already entered the Spanish territory and is legally residing therein.<sup>12</sup> The **procedures and conditions** to apply for and obtain these, as well as the differences between these permits are further detailed in **Section II** of this Report. It should be noted that the foreign investor can also enter the Spanish territory by requesting and applying for a **stay visa**.<sup>13</sup> However, the requirements and procedure for this are not specific to investors; rather, any third-country national wishing to enter the Spanish territory and requiring a visa to do so can apply for this type of visa. Therefore, the procedure and conditions to apply and obtain a stay visa are not covered in this Report, as these are not waived or facilitated especially for investors and, thus, does not constitute an investors' residence programme within the scope of this Report.

Law 14/2013 was **modified by the Eleventh Final Provision of Law 25/2015**.<sup>14</sup> The amendments introduced by the said Provision aimed to ease and speed up the procedure by introducing, inter alia: the possibility of applying for the investors' residence authorisation when already residing in Spain and without the requirement to already have an investors' residence visa (i.e. by holding a stay visa); the extension of the concept of family members to unmarried partners; the increase in the validity of the renewed investors' residence authorisation from two to five years; the automatic extension of the existing authorisation while the renewal procedure is ongoing.

Furthermore, after a period of five years of residence, foreign investors, as any other third-country national resident in Spain, may apply for **long-term residence** which entitles them to **reside and work** in Spain for an **indefinite period of time, under equal conditions as Spanish citizens**.<sup>15</sup> The prior five-year residence period is not required in the specific cases observed by the law.<sup>16</sup> Among these, it is of particular interest to investors that long-term residence can be granted without requiring a prior residence of five years to foreigners who have made a note-worthy contribution to, inter alia, Spain's

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<sup>8</sup> Articles 30bis and 31 LOEX, as developed by Articles 46 to 51 RELOEX; MESS, 'Report on the implementation on the Section on International Mobility of Law 14/2013 of 27 September on the support to entrepreneurs and their internationalisation' (*Informe sobre la aplicación de la Sección de Movilidad Internacional de la Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización*), April 2015, available at [http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14\\_2013/documentacion/Informe\\_anual\\_de\\_la\\_Seccion\\_de\\_Movilidad\\_de\\_la\\_ley\\_14\\_2013.pdf](http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14_2013/documentacion/Informe_anual_de_la_Seccion_de_Movilidad_de_la_ley_14_2013.pdf) (MESS 2015 Report).

<sup>9</sup> Articles 63 -65 Law 14/2013.

<sup>10</sup> Articles 66 and 67 Law 14/2013.

<sup>11</sup> Article 63(1) Law 14/2013. The investor can also request instead a **stay visa** as explained in Section II.1 of this Report.

<sup>12</sup> Article 66(1) Law 14/2013.

<sup>13</sup> Article 63(1) Law 14/2013.

<sup>14</sup> Law 25/2015, of July 28, of second chance mechanism, reduction of the financial burden and other measures of social order (*Ley 25/2015, de 28 de julio, de mecanismo de segunda oportunidad, reducción de la carga financiera y otras medidas de orden social*) Official State Gazette No. 180 of 29 September 2015, BOE-A-2015-8469, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2015-8469#dfundecima>

<sup>15</sup> Article 32 LOEX.

<sup>16</sup> Article 148(3) RELOEX waives the requirement of a prior five-year residence to foreigners who legally reside in Spain and (a) are beneficiaries of a retirement pension; (b) are beneficiaries of disability pension; (c) were born in Spain and when they reach the legal age have legally resided in Spain in a continuous way for at least three consecutive years prior to the application for long-term residence; (d) were Spanish citizens but lost their nationality; (e) have been under the guardianship of a Spanish legal entity for five consecutive years before reaching the legal age and applying for long-term residence; (f) stateless persons, refugees or beneficiaries of subsidiary protection who are in the Spanish territory and have the corresponding recognised status by the competent authorities; and (g) have made a note-worthy contribution to the economic, scientific or cultural progress of Spain or to the visibility of Spain abroad.

economic progress or visibility abroad.<sup>17</sup> However, since none of the general requirements for long-term residence applicable to all other third-country nationals are waived or facilitated in consideration of the mentioned contribution, this does not constitute a specific investors' residence scheme and, thus, is not examined in detail in this Report.

Finally, foreign investors, as any other third-country national, may apply or be eligible for Spanish citizenship through **naturalisation procedures**. These are examined in Section IV of this Report.

In light of the above, Figure 1 below summarises the steps through which foreign investors can progress from their entry into Spain to the possibility of obtaining the Spanish citizenship, covering the corresponding permits in each phase and Table 1 develops the key concepts.

**Figure 1 Overview of the entry and residence procedure for third-country investors and corresponding authorisations**



**Table 1 Key concepts**

Situation	Definition	Permit
<b>Stay (Article 30 LOEX)</b>	Permanence in the Spanish territory for a period of time <b>not exceeding 90 days</b> . After the expiry of this period, the individual must apply for: a) an <b>extension</b> of the stay; <b>or</b> b) a <b>residence authorisation</b>	<ul style="list-style-type: none"> <li>■ <b>Stay visa</b>: entitles the holder to stay for an uninterrupted period of three months or for consecutive stays adding up to three months from the date of the first entry (Article 25bis(b) LOEX). <b>Investors</b> can apply for this visa to enter the Spanish territory (Article 63(1) Law 14/2013)</li> </ul>
<b>Temporary Residence (Article 31 LOEX)</b>	Authorises individuals to remain in Spain for a period <b>exceeding 90 days but no longer than five years</b> . After such period, the individual may apply for: a) <b>renewal of the temporary residence</b> , or b) <b>long-term residence</b> (after five years of continuous residence)	<ul style="list-style-type: none"> <li>■ <b>Residence visa</b> (Article 25bis(c) LOEX): only authorises the holder to reside, not to work. In order to work the holder will have to request, additionally a <b>residence and work</b> authorisation. Law 14/2013 provides for a specific <b>residence visa for investors</b> (Article 63(1)).</li> <li>■ <b>Residence and work visa</b> (Article 25bis(d) LOEX): authorises the entry and stay for three months and to start, in that same period, a professional activity for which a <b>residence and work authorisation</b> has previously been applied for.</li> <li>■ The <b>residence and work authorisation</b> entitles the holder to reside and work on an employed (<i>trabajo por cuenta ajena</i>) or self-employed (<i>trabajo por cuenta propia</i>) basis (Articles 36-38 LOEX). The duration of this authorisation is of <b>one year</b> (Article 63(5) RELOEX) and can be renewed (Article 71 RELOEX). Furthermore, there is a specific <b>investors' residence authorisation</b> which has a duration of <b>two years</b> and is renewable for periods of five years (Articles 66-67 Law 14/2013).</li> </ul>

<sup>17</sup> Article 148(3)(g) RELOEX.

Situation	Definition	Permit
<b>Long-term residence (Article 32 LOEX)</b>	Authorises individuals to <b>reside and work</b> in Spain for an <b>indefinite period of time, under the same conditions as Spanish citizens.</b>	<ul style="list-style-type: none"> <li>■ <b>Long-term residence authorisation</b> (Articles 148-149 RELOEX)</li> <li>■ If the authorisation is granted, a <b>Foreigner Identification Card</b> (<i>Tarjeta de Identidad de Extranjero</i>) is issued (Articles 148-149 RELOEX). It must be renewed every five years (Article 150 RELOEX).<sup>18</sup></li> </ul>

### ■ *Competent authorities*

This Section provides an overview of the competent authorities regarding migration issues. A more detailed explanation of the authorities involved in the procedure to examine and, if appropriate, grant investors' residence permits is provided in Section II.1.2 of this Report.

Under the Spanish Constitution, the General Administration of the State has exclusive competence on migration issues.<sup>19</sup> Specifically, the **Ministry of Employment and Social Security** (*Ministerio de Empleo y Seguridad Social*, MESS) is the competent authority from the General Administration of the State for regulating migration issues.<sup>20</sup> Within the MESS, there is a **General Secretariat on Migration** (*Secretaría General de Inmigración y Emigración*), competent for Spanish migration policy.<sup>21</sup> Under the leadership of the Secretariat, the **General Directorate on Migrations** (*Dirección General de Migraciones*, DGM) is responsible for granting **residence authorisations for investors**.<sup>22</sup> The processing of the applications for such authorisations rests with the **Unit of Large Undertakings and Strategic Collectives** (*Unidad de Grandes Empresas y Colectivos Estratégicos*, UGE-CE), which was established in 2007, attached to the MESS.<sup>23</sup>

The **competent authorities for issuing visas** under which foreign investors may enter Spanish territory (stay visa or investors' residence visa) are the **diplomatic missions and consular offices** of Spain.<sup>24</sup>

<sup>18</sup> Investors to whom a residence visa or authorisation is granted do not need to apply for and obtain a Foreigner Identification Card (Article 75(4) Law 14/2013).

<sup>19</sup> Article 149(1)(2°) of the Spanish Constitution (*Constitución Española*), State Gazette 311 of 29 December 1978, BOE-A-1978-31229, available at <https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229&p=20110927&tn=1#a148>.

<sup>20</sup> Article 1(1) of Royal Decree 703/2017, developing the basic organisational structure of the Ministry of Employment and Social Security and modifying Royal Decree 424/2016, of 11 November, establishing the organisational structure of ministerial departments (*Real Decreto 703/2017, de 7 de julio, por el que se desarrolla la estructura orgánica básica del Ministerio de Empleo y Seguridad Social y se modifica el Real Decreto 424/2016, de 11 de noviembre, por el que se establece la estructura orgánica básica de los departamentos ministeriales*), State Gazette 162 of 8 July 2017, BOE-A-2017-7979, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2017-7979>. The Ministry of Employment and Social Security was previously the Ministry of Employment and Migration, which it replaced in 2011.

<sup>21</sup> Website of the Ministry of Employment and Social Security (MESS), available at [http://www.empleo.gob.es/es/sec\\_emi/index.htm](http://www.empleo.gob.es/es/sec_emi/index.htm).

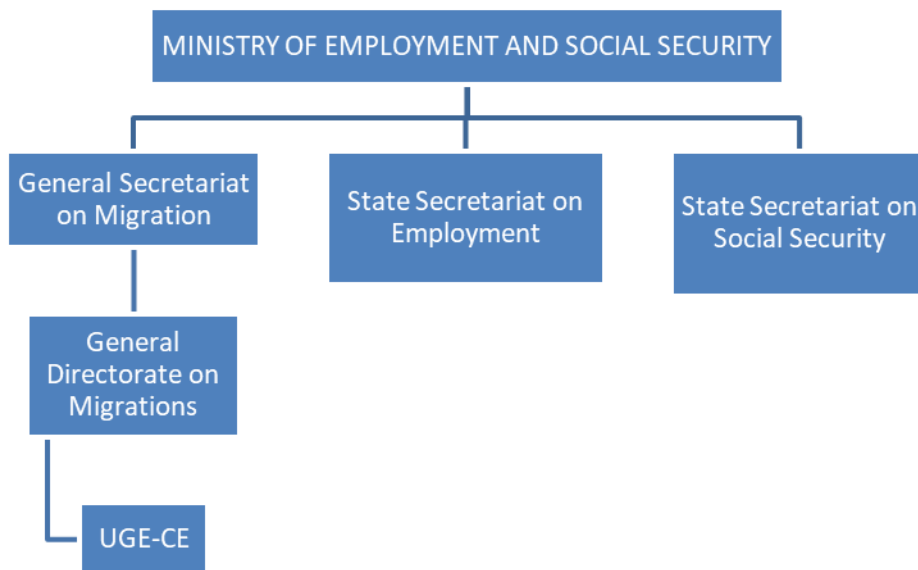
<sup>22</sup> Article 66(1) of Law 14/2013.

<sup>23</sup> UGE-CE website, available at <http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/index.html>.

<sup>24</sup> Article 63(1) in relation with Article 75(1) Law 14/2013



Figure 2 Organigram of competent authorities in migration issues



## II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

### 1 APPLICATION PHASE

#### 1.1 PROCEDURES

##### ■ *Who can apply for a residence permit under the investors' residence schemes*

**Foreigners not residing in the Spanish territory** may apply for an **investors' residence visa** (*visado de residencia para inversores*).<sup>25</sup> Under the Spanish general law on aliens (Organic Law 4/2000, LOEX),<sup>26</sup> foreigners are persons who do not hold the Spanish citizenship.<sup>27</sup> This same law also provides that it is not applicable to EU and EEA citizens.<sup>28</sup> Therefore, foreigners, in the terms of the Spanish legislation, are third-country nationals.

The **investors' residence visa** entitles the holder **to stay and work** in Spain during the period of validity (**one year**).<sup>29</sup>

Foreign investors who **are already legally residing in Spain** (whether under an investors' visa or any other type of permit) can directly apply for and obtain a **residence authorisation** (*autorización de residencia*).<sup>30</sup> Therefore, it is not a prerequisite that the investor holds an investors' residence visa to apply for an investors' residence authorisation. The only prerequisite is that the investor is already legally residing in Spain, regardless under which legal permit.<sup>31</sup>

The procedure to obtain each of these permits is explained below.

##### ■ *Procedural stages*

Investors intending to **enter** the Spanish territory are subject to the same rules of entry as other ordinary migrants.<sup>32</sup> To enter Spain, they must do so through the **authorised border crossings** (*puestos habilitados*).<sup>33</sup>

Regarding the **required documentation**, investors must hold a **valid passport** or travel document certifying their identity and they must submit proof of **sufficient means of subsistence** for the period of intended stay and the **documentation** prescribed by regulation.<sup>34</sup> The latter refers to documents justifying:

- the declared purpose and conditions of entry and stay,<sup>35</sup>
- that the foreigner does not suffer from a disease that may have serious effects on public health

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<sup>25</sup> Article 63(1) Law 14/2013.

<sup>26</sup> LOEX.

<sup>27</sup> Article 1(1) LOEX.

<sup>28</sup> Article 1(3) LOEX.

<sup>29</sup> Articles 63(1) and 65 Law 14/2013.

<sup>30</sup> Article 66 Law 14/2013.

<sup>31</sup> Information gathered through consultation with national stakeholder (representative of the General Secretariat on Migration, competent authority, 21 June 2018).

<sup>32</sup> Article 25 LOEX.

<sup>33</sup> Article 25(1) LOEX and Article 1 RELOEX. Authorised border crossings are established by agreement with the authorities of the territory bordering Spain, through an order of the Ministry of State Presidency, on the basis of a joint proposal of the Ministry of Foreign Affairs and Cooperation and Economy and Public Treasury (Article 2 RELOEX).

<sup>34</sup> Article 25(1) LOEX.

<sup>35</sup> Article 4(1)(c) and Article 8 RELOEX.

- according to EU and international health regulations,<sup>36</sup>
- that the foreigner is not barred from entering the Spanish territory,<sup>37</sup>
- that the foreigner does not represent a threat to public health, national security or the international relations of Spain or of other States with which Spain has an agreement in that regard.<sup>38</sup>

In addition, investors must **hold** either an **investors' residence visa** (*visado de residencia para inversores*) or a **stay visa** (*visado de estancia*).<sup>39</sup> Only the procedure and requirements to apply for the investors' residence visa are explained below as the stay visa falls outside the scope of this Report.

### ***Procedure for investors' residence visas***

Article 75(1) and (4) of Law 14/2013 provide that the **application procedure and issuance** of stay and residence visas regulated in Section II of Title V (including investors' residence visas) is regulated by **Regulation (EC) No 810/2009**<sup>40</sup> and **Regulation (EU) 265/2010**.<sup>41</sup>

**To apply** for the investors' residence visa, applicants must demonstrate that they made a '**significant capital investment**'. Spanish legislation provides what nature and amount of investment qualifies as 'significant'. The foreign investor must carry out one of the following investments<sup>42</sup>:

- a) An initial investment of, **at least**:
  - **EUR 2 million in Spanish public debt securities, or**
  - **EUR 1 million in shares of Spanish companies, or**
  - **EUR 1 million in investment funds**, closed-end investment funds or venture capital funds **set up in Spain** included within the scope of Law 35/2003<sup>43</sup> or Law 22/2014<sup>44</sup> (new category introduced by the amendment of 2015), or
  - **EUR 1 million in bank deposits in Spanish financial institutions.**
- b) The **acquisition of real estate** in Spain valued at a minimum of **EUR 500,000** per applicant.<sup>45</sup>

<sup>36</sup> Article 4(1)(e) and 10 RELOEX. This can be either a health certificate issued by the country of origin or can be replaced by a medical examination upon the entry of the foreigner in Spain.

<sup>37</sup> Article 4(1)(f) and 11 RELOEX. Foreigners may be barred from entering the Spanish territory if they have been previously expelled from Spain; are subject to a measure of return (*refoulement*); are wanted by the police or judicial authorities of other countries in relation to criminal actions deriving from common serious crimes; are subject, expressly, to a ban on entry resulting from a decision of the Ministry of Interior; are prohibiting from entering Spain by virtue of international conventions.

<sup>38</sup> Article 4(1)(g) RELOEX.

<sup>39</sup> Article 63(1) Law 14/2013

<sup>40</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), OJ L 243, 15.9.2009, p. 1–58, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009R0810> (Regulation 810/2009).

<sup>41</sup> Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010R0265-20160412> (Regulation 265/2010).

<sup>42</sup> Article 63(2) Law 14/2013.

<sup>43</sup> Law 35/2003, of November 4, of Collective Investment Institutions (*Ley 35/2003, de 4 de noviembre, de Instituciones de Inversión Colectiva*), Official Gazette 265/2003, BOE-A-2003-20331, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2003-20331>.

<sup>44</sup> Law 22/2014, of November 12, which regulates the venture capital entities, other collective investment entities of closed type and the management companies of collective investment entities of closed type, and by which it is modified Law 35/2003 (*Ley 22/2014, de 12 de noviembre, por la que se regulan las entidades de capital-riesgo, otras entidades de inversión colectiva de tipo cerrado y las sociedades gestoras de entidades de inversión colectiva de tipo cerrado, y por la que se modifica la Ley 35/2003, de 4 de noviembre*), Official Gazette 275/2014, BOE-A-2014, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2014-11714>.

<sup>45</sup> The reference to 'per applicant' in the Spanish legislation is due to the fact that the acquisition might be carried out by a married couple. Specifically, Article 63(4) Law 14/2013 provides that when the investments in letters (a) or (b) are carried out by a married couple who has a common property regime or an analogous regime (i.e. a regime in which all goods belong to the couple and are not distinguished per member of the couple) and the amount of the investment does not amount at least to double of the thresholds therein set, it shall be deemed that the investment has been carried out by only one of the members of the couple. The other spouse may, instead of applying for an investors' residence visa, may apply for a family member visa as explained in Section II.1.5 of this Report.

- c) A **business project** to be developed in Spain and that is considered and certified as being of **general interest**, for which **compliance with at least one** of the following conditions will be assessed: **job creation, relevant socioeconomic impact in the geographical area** in which the activity will be developed, **relevant contribution to scientific and/or technological innovation**.

The significant capital investment can be carried out by:

- the investor him/herself;<sup>46</sup>
- the investor together with his/her spouse;<sup>47</sup>
- a legal person, registered in a territory that is not considered a tax haven<sup>48</sup> according to Spanish regulations, in which the foreign investor owns, directly or indirectly, the majority of the voting rights and has the power to appoint or dismiss the majority of the members of its administrative body.<sup>49</sup>

In addition, to issue the investors' residence visa the applicant must meet the general **entry requirements**<sup>50</sup> set in Regulation (EC) 562/2006 (Schengen Borders Code)<sup>51</sup> and those of Regulation 810/2009. Such requirements reproduce the need to present the documentation already referred to and add the following:<sup>52</sup>

- the **applicant** must not be a person for whom an **alert** has been issued in the **Schengen Information System**<sup>53</sup>
- to present a **photograph** (scanned or taken at the time of the application)<sup>54</sup>
- to allow the collection of **fingerprints** (10, taken flat and collected digitally)<sup>55</sup>
- to present documents in relation to **accommodation or proof of sufficient means** to cover his/her accommodation<sup>56</sup>
- to present information enabling an assessment of the **applicant's intention to leave the territory** of the Member States before the expiry of the visa applied for<sup>57</sup>
- to present proof that the applicant is in possession of **adequate and valid travel medical insurance** (i.e. sufficient to cover the medical expenses for the entire period of intended stay and

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<sup>46</sup> Article 63(2) Law 14/2013.

<sup>47</sup> Article 63(4) Law 14/2013.

<sup>48</sup> Under the 50th Additional Provision of Law 9/2017 of 8 November on Public Sector Contracts transposing Directives 2014/23/EU and 2014/24/EU (*Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público, por la que se transponen al ordenamiento jurídico español las Directivas del Parlamento Europeo y del Consejo 2014/23/UE y 2014/24/UE, de 26 de febrero de 2014*), Official Gazette 272/2017, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2017-12902>, the Government has to adopt a list of countries considered a tax haven. However, this list has not yet been adopted. According to the newspaper El Confidencial, some of the countries to be included in the list are Bahrein, Brunei, Gibraltar, Anguilla, Antigua y Barbuda, Bermuda, Cayman Islands, Cook Islands, Dominican Republic, Granada, Fiji, Channel Islands, Malvinas, Isle of Man, Mauritius, etc. Whole list available at El Confidencial, "What is a tax haven for Spain and which countries are included in the 'black list'?", (*¿Qué es para España un paraíso fiscal y qué países integran la "lista negra"?*), November 2017, available at [https://www.elconfidencial.com/economia/paradise-papers/2017-11-06/papeles-paraiso-fiscal-legislacion-espana\\_1473396/](https://www.elconfidencial.com/economia/paradise-papers/2017-11-06/papeles-paraiso-fiscal-legislacion-espana_1473396/).

<sup>49</sup> Article 63(3) Law 14/2013

<sup>50</sup> Article 62(1) and (2) Law 14/2013.

<sup>51</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 105, 13 April 2006, p. 1-32, available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32006R0562>. Repealed and replaced by Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23 March 2016, available at <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32016R0399> (Regulation (EU) 2016/399). The entry requirements are set in Article 6.

<sup>52</sup> Article 10(2) Regulation 810/2009.

<sup>53</sup> Article 6 Regulation (EU) 2016/399.

<sup>54</sup> Article 13(2) Regulation 810/2009.

<sup>55</sup> Article 13(2) Regulation 810/2009. Article 13(7) Regulation 810/2009 sets the people who shall be exempt from the requirement to give fingerprints.

<sup>56</sup> Article 14(1)(b) Regulation 810/2009.

<sup>57</sup> Article 14(1)(d) Regulation 810/2009.

- with a minimum coverage of EUR 30,000)<sup>58</sup>
- to present proof of payment of the **visa fee of EUR 60**<sup>59</sup>

The **application** must be **lodged in person**<sup>60</sup> by the applicant or an accredited commercial intermediary.<sup>61</sup> In the case of investors' residence visas, in addition, when the investment is in a business project (letter (c) above), the visa can be obtained by a representative, appointed by the investor and duly accredited for the project management.<sup>62</sup> The application must be lodged no more than **three months before the start of the intended stay**.<sup>63</sup> Normally, an appointment is set with the consulate to lodge the application.<sup>64</sup>

Investors' residence visa applications are examined and decided upon by the Spanish **consular offices and diplomatic missions** in the territory from where the foreigner intends to access the Spanish territory.<sup>65</sup> This means, that the consular offices and diplomatic missions examine, inter alia, the existence of the corresponding investment. In doing so, they act in cooperation with their Economic and Commercial Office (*Oficina Económica y Comercial*),<sup>66</sup> which must issue a favourable report regarding the application and the investment.<sup>67</sup> This Office, depending on the type of investment carried out, may consult the corresponding authorities to verify that the investment has been made. These are:<sup>68</sup>

- Ministry of Economy and Competitiveness (General Directorate),
- the National Securities Market Commission (*Comisión Nacional del Mercado de Valores*, CNMV)
- the National Central Bank – Bank of Spain (*Banco de España*),
- the Property Registry (*Registro de la Propiedad*),<sup>69</sup> or
- private entities: a financial intermediary registered with the CNMV when the investment is in traded shares, the financial institution when the investment is in public debt or a bank deposit, and a company managing the investment fund when the investment is in such funds.

The way in which the fulfilment of the investment requirement is verified is explained in Section II.2 (Table Type of Investment) below.

In examining the application for a residence visa, the diplomatic missions and consular offices can request information from the General Directorate of the Police (DGP) to check if the applicant represents a risk for security.<sup>70</sup> The DGP must provide an answer within seven days from receiving the

<sup>58</sup> Article 10(3)(g) in relation with Article 15 Regulation 810/2009.

<sup>59</sup> Article 10(3)(e) in relation with Article 16(1) Regulation 810/2009.

<sup>60</sup> Article 10(1) of Regulation 810/2009. Consulates may waive the requirement to appear in person when the applicant is known to them for his integrity and reliability (Article 10(2) of Regulation 810/2009).

<sup>61</sup> Article 9(4) in accordance with Articles 42, 43 and 45 of Regulation 810/2009. Under Article 2(11) of the Regulation, an “accredited commercial intermediary” means a private administrative agency, transport company or travel agency (tour operator or retailer). The Spanish legislation allows for the intervention of commercial intermediaries as a consequence of the direct applicability of Regulation 810/2009. Commercial intermediaries who are, thus, given legal power by the applicant may lodge the application. It is logic to think that foreign investors who are business persons will give the necessary power of representation to their appointed commercial intermediaries to file the application on their behalf. In these cases, the commercial intermediary will normally be an administrative agency that takes care of procedures such as this for a business person.

<sup>62</sup> Article 63(2)(c) Law 14/2013.

<sup>63</sup> Article 9(1) of Regulation 810/2009. Stay visas can be for a multiple-entry. In this case, the application must be lodged before the expiry of the visa valid for a period of at least six months.

<sup>64</sup> Article 9(2) and (3) of Regulation 810/2009.

<sup>65</sup> Articles 4(1), 6(1) and 7 of Regulation 810/2009 and Article 75(1) Law 14/2013.

<sup>66</sup> This Office is part of the consulate or diplomatic mission competent to receive, examine and issue the corresponding visa.

<sup>67</sup> Article 64(c) Law 14/2013.

<sup>68</sup> The specific evidentiary means these authorities issue to certify that the investment has been carried out are explained in detail in Section II.2 (table on type of investment) of this Report.

<sup>69</sup> The Property Registry registers the acts, contracts and judicial or administrative decisions that affect real estate property and other rights on such property. The Property Registry is attached to the Ministry of Justice and run by the General Directorate of Registers and Notaries (*Dirección General de los Registros y del Notariado*, DGRN). Information available at the website of the Ministry of Justice [http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/registros/registro-propiedad#id\\_1215198094406](http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/registros/registro-propiedad#id_1215198094406).

<sup>70</sup> Article 62(6) Law 14/2013.

request. Failing this, the answer is considered positive (i.e. the applicant represents a security risk).<sup>71</sup> Regulation 810/2009 also foresees the possibility that **the consulate** or diplomatic mission, following their own discretion, in justified cases, **requests the applicant to appear in person for a personal interview** and to present **additional documents**.<sup>72</sup> In practice, according to stakeholder input, such interview is only carried out in specific cases where, for example, the type of investment made (e.g. business project) is of particular interest or when applicants request a clarification of the steps or documentation in the proceedings.<sup>73</sup>

The application must be submitted in the **form** established in Regulation 810/2009.<sup>74</sup>

The **time-frame** for the consulate to **decide** on the visa application is of **ten days from the filing of the application**,<sup>75</sup> unless it is necessary to consult the central authorities of other Member States as provided for by Article 22 of Regulation 810/2009.<sup>76</sup> In this case, the authorities of the other Member State must answer the request within seven calendar days.<sup>77</sup>

If the **consulate** or diplomatic mission **refuses to issue the investors' residence visa** on the basis that the legal requirements are not met, the decision is **notified through a standardised handout** as set in Regulation 810/2009, **indicating the possibility to challenge such decision in appeal**, the **term** to file the appeal and the **competent authority** with which to file such appeal.<sup>78</sup> Appeals are explained below in this Section.

Should the consulate (or diplomatic mission) **decide to issue the investors' residence visa**, it will do so following the **uniform format** set out in Council Regulation (EC) No 1683/95<sup>79</sup> with the heading specifying the type of visa with **the letter "D"**.<sup>80</sup> The foreigner must **pick it up within the month after the decision** of the consulate has been **notified**, either **personally** or through a duly authorised **representative**. If the visa is not collected in this term, it is deemed that the **foreigner renounces** the stay visa and the case-file is archived.<sup>81</sup>

The investors' residence visa has a **duration of one year**,<sup>82</sup> save for the case where the investment made is the acquisition of real state and the purchase has not been formalised yet, when the duration will be of **six months** instead (see Section II.2 and 3 of this Report).<sup>83</sup> The **investors' residence visa** entitles the holder of the visa to **reside and work**.<sup>84</sup>

Once the investor has entered the Spanish territory and is holding a visa (whether a stay or an investors' residence visa), s/he can apply for a **residence authorisation for investors**.

### ***Procedure for a residence authorisation for investors***

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<sup>71</sup> Article 62(6) Law 14/2013.

<sup>72</sup> Article 21(8) Regulation 810/2009.

<sup>73</sup> Information gathered through consultation with national stakeholder (Consulate of Spain in Los Angeles, competent authority, 20 June 2018).

<sup>74</sup> Articles 10(3)(a) and 11 of Regulation 810/2009. The form is provided in Annex I to Regulation 810/2009.

<sup>75</sup> Article 75(4) Law 14/2013.

<sup>76</sup> Article 22 of Regulation 810/2009 sets the opportunity for Member States to consult the central authorities of other Member States during the examination of the applications lodged by third-country nationals or specific categories of such nationals.

<sup>77</sup> Article 22 Regulation 810/2009.

<sup>78</sup> Article 30(4) RELOEX in relation with Annex VI to Regulation 810/2009.

<sup>79</sup> Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas, OJ L 164, 14 July 1995, p. 1–4, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:31995R1683>.

<sup>80</sup> Article 18 of the Convention Implementing the Schengen Agreement, as amended by Regulation (EU) No 265/2010.

<sup>81</sup> Article 30(5) RELOEX.

<sup>82</sup> Article 63(1) Law 14/2013.

<sup>83</sup> Article 64(b), Law 14/2013. The wording of Article 66(2)(b) Law 14/2013 implies that the investors' residence visa can also be granted for six months instead of for a whole year.

<sup>84</sup> Article 65 Law 14/2013. The stay visa does not entitle the holder to work (Article 25bis LOEX). If the investor has obtained a stay visa, once s/he has entered the Spanish territory must apply for a

This procedure to request a residence authorisation for investors must be processed following Directive 2011/98/EU (Single Permit Directive).<sup>85</sup>

To obtain an investors' residence authorisation, the applicant must fulfil **all** of the general requirements applicable to all third-country nationals who wish to enter the Spanish territory and who have applied for a residence permit under Section II, Title V of Law 14/2013.<sup>86</sup> These general requirements are:<sup>87</sup>

- **Not to be illegally in Spanish territory**<sup>88</sup>
- To be **at least 18 years old**
- **Not to have a criminal record** in Spain and in the countries where the person has had his/her residence for the past five years for offences established in the Spanish legal system
- **Not to appear as rejected** in the territorial area of countries with which Spain has signed an agreement in this regard<sup>89</sup>
- To have a **public insurance or private health insurance** arranged with an insurance company authorised to operate in Spain
- To have **sufficient financial resources** for themselves and their family members **during their period of residence** in Spain
- To pay the corresponding **fee**<sup>90</sup>
- To **fulfil the obligations** established by Law 10/2010, of April 28, on the **prevention of money laundering** and the financing of terrorism<sup>91</sup> and the corresponding **Social Security or tax obligations**.<sup>92</sup>

Apart from the general criteria stated above, there are other **criteria** which are **specific to the residence**

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<sup>85</sup> Fourth Additional Provision, Law 14/2013 and 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 and on a common set of rights for third-country workers legally residing in a Member State, OJ L 343, 23 December 2011, available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011L0098> (Single Permit Directive).

<sup>86</sup> The visas and authorisations regulated under Section II, Title V Law 14/2013 are those concerning investors (Articles 63-67), entrepreneurs (Articles 68-70), highly qualified professionals (Articles 71 and 72) and intra-corporate transfers (Articles 73 and 74). For the purposes of this Report, only the first (investors) are relevant.

<sup>87</sup> Article 66(2) in relation with Article 62(3) Law 14/2013.

<sup>88</sup> A third-country national is deemed to be illegally in Spain when their stay authorisation has not been renewed, s/he has not obtained the necessary residence authorisation or such authorisation has been expired for over three months or has not requested the renewal of such residence authorisation in the time-frame established by the RELOEX (Article 53(1)(a) LOEX).

<sup>89</sup> Article 26 LOEX establishes that the entry (and, thus, the issuance of a visa) of third-country nationals may be rejected to those who have been expelled as long as the expulsion measure remains in force, and to those whose entry is prohibited under the law. Such causes are regulated in Article 11 RELOEX and listed above in footnote 27. One of such causes is that Spain has signed a treaty with a country regarding the prohibition of entrance to certain third-country nationals (Article 11(e) RELOEX).

<sup>90</sup> Order ESS/1571/2014 of 29 August establishing the amount of the fees for the processing of administrative authorisations concerning international mobility (*Orden ESS/1571/2014, de 29 de agosto, por la que se establece el importe de las tasas por tramitación de autorizaciones administrativas en relación con la movilidad internacional*), Official Gazette 215/2014, BOE-A-2014-9064, available at [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2014-9064](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2014-9064). The document to proof that the fee has been paid is a standardised form of the UGE-CE, available at <https://expinterweb.empleo.gob.es/Tasa038/presentarFormulario038.action>.

<sup>91</sup> Law 10/2010, of April 28, on the prevention of money laundering and the financing of terrorism (*Ley 10/2010, de 28 de abril, de prevención del blanqueo de capitales y de la financiación del terrorismo*), Official Gazette 103/2010, BOE-A-2010-6737, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2010-6737> (Law 10/2010). Law 10/2010 transposes the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, OJ L 141, 5 June 2015, available at <https://eur-lex.europa.eu/legal-content/En/TXT/?uri=CELEX:32015L0849> (AMLD).

<sup>92</sup> Article 62(5) Law 14/2013. Such obligations are set in the Law 58/2003 of 17 December adopting the General Tax Law (*Ley 58/2003, de 17 de diciembre, General Tributaria*), Official Gazette 302/2003, BOE-A-2003-23186, available at <https://boe.es/buscar/act.php?id=BOE-A-2003-23186> (last amended in November 2017) and in Royal Decree Legislative 8/2015, of 30 October, adopting the recast text of the General Law on Social Security (*Real Decreto Legislativo 8/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley General de la Seguridad Social*), Official Gazette 261/2015, BOE-A-2015-11724, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2015-11724>.

## authorisation for investors:

- If the investor **holds an investors' residence visa**.<sup>93</sup>
  - The visa must be in force or be within the 90 days following the end of its validity period;
  - The applicant must file the documents to prove that s/he has made a 'significant capital investment' (see the table in Section II.2 'Type of Investment' of this Report);
- If the investor **does not hold an investors' residence visa but is legally in the Spanish territory** (for example, s/he has a stay visa), s/he must make a 'significant capital investment' in the terms defined above in this Report.<sup>94</sup>

The **application** for a residence authorisation for investors may be **lodged by** the investors themselves or with their spouse or by an appointed representative (when the significant investment consists in a business project of general interest).<sup>95</sup>

The **application standardised form** is available online<sup>96</sup> in English, French, German, Russian, Chinese and Arabic.

The **processing** of the application may be done using **electronic means**.<sup>97</sup> For such purposes, the MESS created an online platform<sup>98</sup> through which the following steps can be carried out:<sup>99</sup>

- filing, for the first time, an application for a residence authorisation;
- attaching the necessary accompanying documentation to the filed application for its processing;
- attaching new documentation necessary to rectify an application that is incomplete;
- requesting the renewal of the issued authorisation;
- consulting the state of the application procedure (e.g. whether the application is being examined by the competent authorities, whether it has been forwarded to the competent authority for its approval, whether the competent authority has issued a decision on the application, etc.); and
- accessing the notifications issued by the competent authorities.

While the residence authorisation for investors is being processed, the **validity of the investors' residence visa or stay visa is extended** for as long as the procedure is ongoing (including the appeal phase).<sup>100</sup>

The **competent authority to process** (i.e. receive and examine) the application for an investors' residence authorisation is the **Unit of Large Undertakings and Strategic Collectives (UGE-CE)**.<sup>101</sup> The evidence and procedure to assess the application is specified in Sections II.2 to 4 of this Report (see below). However, the **decision** on whether or not to grant (and, thus, issue) the investors' residence authorisation lies with the **General Directorate on Migrations (Dirección General de Migraciones, DGM)**.<sup>102</sup>

The DGM must take a **decision** and notify it to the applicant within **20 days from the submission** of

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<sup>93</sup> Article 66(2) Law 14/2013.

<sup>94</sup> Article 66(3) Law 14/2013.

<sup>95</sup> Article 66(1) and (3) Law 14/2013.

<sup>96</sup> MESS website, available at [http://extranjeros.empleo.gob.es/es/ModelosSolicitudes/ley\\_14\\_2013/MI\\_T\\_NOV\\_2016\\_editable.pdf](http://extranjeros.empleo.gob.es/es/ModelosSolicitudes/ley_14_2013/MI_T_NOV_2016_editable.pdf).

<sup>97</sup> Article 76(1) Law 14/2013.

<sup>98</sup> MESS website, Electronic Office of the General Directorate of Migrations, Applications on International Mobility (authorisations regulated by Law 14/2013), available at <https://expinterweb.empleo.gob.es/ley11/inicio/showTramites.action?procedimientoSel=200&proc=5>. As explained, Law 14/2013 also regulates the residence authorisations of other categories of individuals apart from foreign investors (entrepreneurs, highly qualified professionals and intra-corporate transfers).

<sup>99</sup> MESS website, Information Point, 'Filing applications for the residence authorisation for international mobility (authorisations regulated by Law 14/2013)', available at <https://expinterweb.empleo.gob.es/ley11/inicio/elegirTramite.action?tramiteSel=0&procedimientoSel=200&proc=5>.

<sup>100</sup> Article 76(1) Law 14/2013.

<sup>101</sup> Article 66(1) and Article 76(1) Law 14/2013.

<sup>102</sup> Article 66(1) and Article 76(1) Law 14/2013.



the application. If no decision is taken and notified within this period, the authorisation must be considered as granted (**‘affirmative administrative silence’**).<sup>103</sup> The resolution must be **reasoned**.<sup>104</sup>

If the application for a **residence authorisation for investors** is approved and the authorisation **issued**, the investor has the right to **reside and work**<sup>105</sup> in Spain for **two years**.<sup>106</sup> The **renewal** of such authorisation is explained in Section II.3 of this Report (*‘Residence Phase’*). If, on the other hand, the DGM does not approve the application for an investors’ residence authorisation, this decision is **subject to appeal**.<sup>107</sup> Appeals are explained below in this Section.

#### ■ *Application fee*

To obtain the entry visa, as well as to obtain the investors’ residence authorisation a **non-refundable fee** has to be paid.<sup>108</sup> The amount of the fee depends on the type of permit (i.e. visa or residence authorisation) being issued:

- For **investors’ residence visas**, applicants must pay a fee of **EUR 60**.<sup>109</sup>
- For the **residence authorisation for investors**, applicants must pay EUR 70,40 and for the renewal EUR 75,60.<sup>110</sup>

#### ■ *Reasons for turning down the applications*

Article 32(1) Regulation 810/2009 provides that if the permit requested is an **investors’ residence visa**, the application may be refused if the requirements to issue the visa are not fulfilled. Law 14/2013 does not establish the reasons for which an application for an **investors’ residence authorisation** may be refused. However, in practice, the application will be turned down when the necessary conditions to issue the authorisation are not met and cannot be rectified. This derives from the general administrative law principle to provide the opportunity to rectify incomplete administrative acts (which includes the investors’ residence application).<sup>111</sup>

#### ■ *Possible legal remedy(ies) which apply in the case of refusal of residence*

Appeals against a decision refusing an investors’ residence visa or an investors’ residence authorisation follow **the rules set in the general legislation on administrative procedure (Law 39/2015)**.<sup>112</sup> There are two instances of appeals. The first instance resolves appeals on the decisions on the investors’ residence permit (whether a visa or an authorisation). This decision on the appeal in first instance may

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<sup>103</sup> This is due to the legal institution of ‘administrative silence’ recognised by Spanish general administrative law (Articles 24 and 25 Law 39/2015 of 1 October on the Common Administrative Procedure of the Public Authorities (*Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas*), Official Gazette 236/2015, BOE-A-2015-10565, available at <https://boe.es/buscar/act.php?id=BOE-A-2015-10565>). Although the general rule is that the lack of an express decision by the competent public authority means that the request is rejected, where the law provides for it, the lack of an express decision means that the request is approved. This is the case with decisions regarding residence authorisations under Law 14/2013.

<sup>104</sup> Article 76(1) Law 14/2013.

<sup>105</sup> The right to reside and work granted by the investors’ residence authorisation derives from the applicability of the Single Permit Directive (Article 2(c) and 11) (cross-referenced to by the Fourth Additional Provision Law 14/2013).

<sup>106</sup> Article 67(1) Law 14/2013.

<sup>107</sup> Article 76(1) Law 14/2013.

<sup>108</sup> Article 62(2) Law 14/2013.

<sup>109</sup> Article 10(3)(e) in relation with Article 16(1) Regulation 810/2009.

<sup>110</sup> Annex to Order ESS/1571/2014.

<sup>111</sup> Article 22(1)(a) Law 39/2015 and Article 68 Law 39/2015.

<sup>112</sup> Law 39/2015 of 1 October on the Common Administrative Procedure of the Public Authorities (*Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas*), Official Gazette 236/2015, BOE-A-2015-10565, available at <https://boe.es/buscar/act.php?id=BOE-A-2015-10565> (Law 39/2015). There are three types of appeals under this law: *alzada* and *reposición* (Article 112 Law 39/2015), and *revisión* (Article 113 Law 39/2015). Due to the singularities and technicalities of these, such terms do not translate into other languages, including English. The type of appeal against administrative decisions ruling on the granting or not of an investors’ residence visa is the *reposición* whereas the appeal against a decision on the investors’ residence authorisation is the *alzada* appeal (Article 76(1) Law 14/2013).

be challenged in second instance.

### **Appeals against decisions on investors' residence visas**

The appeal can be lodged **before the consulate/diplomatic mission or directly before the administrative courts**<sup>113</sup> within one **month after the decision has been issued and notified**.<sup>114</sup> When a decision should have been issued but it has not ('administrative silence'), the appeal can be filed as of the day after the decision should have been issued (i.e. ten days after the application for an investors' residence visa was filed).<sup>115</sup> The **maximum period to decide** on the appeal and notify the decision is of **one month** from the filing of the appeal.<sup>116</sup> This decision can be **appealed in second instance** either by lodging another appeal<sup>117</sup> before the same authority (the consulate) or directly before the administrative courts (as explained below).

### **Appeals against decisions on investors' residence authorisation**

The first instance resolves appeals on the DGM's decision on the investors' residence authorisation. The **competent authority to decide on the appeal in first instance** is the body hierarchically superior to the authority that issued the decision which is being appealed<sup>118</sup> - in this case, the **General Secretariat on Migration**. The appeal may be **lodged** before the DGM or, directly, before the General Secretariat on Migration<sup>119</sup> in the month after the decision of the DGM was issued.<sup>120</sup> If the appeal has been filed with the DGM, the DGM must forward the appeal to the General Secretariat on Migration in the ten days following the filing of the appeal together with its opinion on the matter.<sup>121</sup> The General Secretariat on Migration has **three months** from the filing of the appeal to issue and notify a decision. If no decision is issued, the appeal is deemed to be rejected ('negative administrative silence').<sup>122</sup> The decision of the General Secretariat on Migration cannot be appealed,<sup>123</sup> except for the appeal that can be filed in second instance before the administrative courts.<sup>124</sup>

### **Legitimised parties to file an appeal**

Since investors' residence permits (whether a visa or an authorisation) are administrative acts, the parties legitimised to file such appeals are those recognised in the general administrative procedure law (39/2015). They are those who qualify as 'interested parties':<sup>125</sup>

- Those who launch the proceedings (in this case, the foreign investor or, where applicable, his/her representative);
- Those who, without launching the proceedings, could be affected by the decision therein taken (for example, the family members of the foreign investor);
- Those whose legitimate interests, whether individual or collectively (including associations and organizations representing economic and social interests), could be affected by the decision of the administrative proceedings and request to be a party to the proceedings (for example, a union of a certain economic sector could request to participate in the proceedings as their interests could be affected by the granting/rejection of a permit to an investor).

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<sup>113</sup> Article 123(1) Law 39/2015.

<sup>114</sup> Article 124(1) Law 39/2015.

<sup>115</sup> Article 124(1) Law 39/2015.

<sup>116</sup> Article 124(3) Law 39/2015.

<sup>117</sup> In this case the *recurso extraordinario de revisión*.

<sup>118</sup> Article 121(1) Law 39/2015.

<sup>119</sup> Article 121(2) Law 39/2015.

<sup>120</sup> Article 122(1) Law 39/2015.

<sup>121</sup> Article 121(2) Law 39/2015.

<sup>122</sup> Article 122(2) Law 39/2015.

<sup>123</sup> Article 122(3) Law 39/2015.

<sup>124</sup> The appeal before the administrative courts is a contentious-administrative appeal (*recurso contencioso-administrativo*) regulated in Law 29/1998 of 13 July on the Contentious-Administrative Jurisdiction (*Ley 29/1998, de 13 de julio, reguladora de la Jurisdicción Contencioso-administrativa*) Official Gazette 167/1998, BOE-A-1998-16718, available at <https://boe.es/buscar/act.php?id=BOE-A-1998-16718> (last amended in July 2017) (hereinafter, Law 29/1998).

<sup>125</sup> Article 4 Law 39/2015.

## 1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

Table 2 below provides an overview of the competent authorities per stage of the procedure and type of permit, as well as the authorities that can be consulted. Only the permits which are specific to investors are covered in the table, although, as explained in Section I, foreign investors may also, as any other third-country national apply for long-term residence and other visas for their entry into Spain.

**Table 2** Competent authority per stage of the procedure and type of permit

Stage of the procedure	Type of permit	Competent authority	Authorities consulted
Entry	Investors' residence visa	Consulate or diplomatic mission	<ul style="list-style-type: none"> <li>■ Economic and Commercial Office (<i>Oficina Económica y Comercial</i>)<sup>126</sup></li> <li>■ Central authorities of other Member States<sup>127</sup></li> <li>■ General Directorate of the Police for security checks<sup>128</sup></li> <li>■ Depending on the type of investment carried out, the corresponding authorities to verify that the investment has been made can be consulted. These are:<sup>129</sup> <ul style="list-style-type: none"> <li>■ Ministry of Economy and Competitiveness (General Directorate,</li> <li>■ the National Securities Market Commission (<i>Comisión Nacional del Mercado de Valores</i>, CNMV)</li> <li>■ the National Central Bank – Bank of Spain (<i>Banco de España</i>),</li> <li>■ the Property Registry (<i>Registro de la Propiedad</i>),<sup>130</sup> or</li> <li>■ Private entities can also be consulted: a financial intermediary registered with the CNMV when the investment is in traded shares, the financial institution when the investment is in public debt or a bank deposit, and a company managing the investment fund when the investment is in such funds.</li> </ul> </li> </ul>
Residence (temporary)	Investors' residence authorisation	<ul style="list-style-type: none"> <li>■ To <b>process</b> the application: UGE-CE<sup>131</sup></li> <li>■ To <b>make</b> a</li> </ul>	<ul style="list-style-type: none"> <li>■ Since to apply for an investors' residence authorisation the applicant must prove that a significant investment has been made,<sup>133</sup> the</li> </ul>

<sup>126</sup> This Office is part of the consulate or diplomatic mission competent to receive, examine and issue the corresponding visa.

<sup>127</sup> Article 22 Regulation 810/2009.

<sup>128</sup> Article 62(6) Law 14/2013

<sup>129</sup> The specific evidentiary means these authorities issue to certify that the investment has been carried out are explained in detail in Section II.2 (table on type of investment) of this Report.

<sup>130</sup> The Property Registry registers the acts, contracts and judicial or administrative decisions that affect real estate property and other rights on such property. The Property Registry is attached to the Ministry of Justice and run by the General Directorate of Registers and Notaries (*Dirección General de los Registros y del Notariado*, DGRN). Information available at the website of the Ministry of Justice [http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/registros/registro-propiedad#id\\_1215198094406](http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/registros/registro-propiedad#id_1215198094406).

<sup>131</sup> Article 76(1) Law 14/2013

<sup>133</sup> Article 66(2) and (3) Law 14/2013.

Stage of the procedure	Type of permit	Competent authority	Authorities consulted
		<b>decision</b> on whether or not the application should be approved and the authorisation issued: DGM <sup>132</sup>	<p>authorities and entities listed in the row above (consulted to issue the residence visa) can be consulted for the issuance of the residence authorisation.</p> <ul style="list-style-type: none"> <li>■ Competent authorities to certify that tax<sup>134</sup> and Social Security obligations are complied with<sup>135</sup></li> <li>■ The competent authority to certify that the anti-money laundering obligations are fulfilled is the Commission on the Prevention of Money Laundering and Monetary Infringements (<i>Comisión de Prevención del Blanqueo de Capitales e Infracciones</i>)<sup>136</sup></li> </ul>

No **non-public bodies** intervene in the procedure to examine and decide on the application for investors' residence permits. However, certain private entities (as reflected in Table 2 above), such as a financial intermediary registered with the CNMV when the investment is in traded shares, the financial institution when the investment is in public debt or a bank deposit, and a company managing the investment fund when the investment is in such funds, may intervene to issue the necessary evidentiary documents.

### 1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

There is **no limitation/cap on the number of applications** that can be submitted by foreign investors in Spain.

As regards **monitoring/scrutiny mechanisms**, Law 14/2013<sup>137</sup> includes an **obligation to prepare an annual report** on the **implementation of the rules on the visas and authorisations** granted to the individuals included in Article 61 of the same law (i.e. **investors**, entrepreneurs, highly qualified professionals, researchers and intra-corporate transferees). The report must be **prepared by the MESS**,

<sup>132</sup> Article 76(1) Law 14/2013

<sup>134</sup> The competent authorities regarding **tax** obligations are regulated in Law 58/2003 of 17 December adopting the General Tax Law (*Ley 58/2003, de 17 de diciembre, General Tributaria*), Official Gazette 302/2003, BOE-A-2003-23186, available at <https://boe.es/buscar/act.php?id=BOE-A-2003-23186> (last amended in November 2017). Under Article 4 of Law 58/2003 both the Central Government (*Estado*) and the Autonomous Communities (*Comunidades Autónomas*) and Local Entities (*Entidades Locales*) have competences in tax matters. Article 5 Law 58/2003 sets the specific competent authorities: at State level, the competent authority is the Ministry of Finance (*Ministerio de Economía y Hacienda*) and, specifically, to the State Agency on Tax Administration (*Agencia Estatal de Administración Tributaria*); at the level of the Autonomous Communities and Local Entities, there are specific departments in their regional governments for tax purposes. The names of these departments vary among the Autonomous Communities and Local Entities but they are generally named "Finance Office" (*Consejería de Hacienda*).

<sup>135</sup> The competent authorities regarding **Social Security** obligations are regulated in in Royal Decree Legislative 8/2015, of 30 October, adopting the recast text of the General Law on Social Security (*Real Decreto Legislativo 8/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley General de la Seguridad Social*), Official Gazette 261/2015, BOE-A-2015-11724, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2015-11724>. Within the MESS, the State Secretariat on Social Security (*Secretaría de Estado de la Seguridad Social*) is competent to ensure the fulfilment of the Social Security obligations and the Social Security and Employment Inspectorate (*Inspección de Trabajo y Seguridad Social*) plays an essential role in it.

<sup>136</sup> The Spanish Anti-money Laundering Law (10/2010) sets the entities that have to carry out the checks established in the law (Article 2) and provides that the competent authority to verify that such obligations are met. This authority is the Commission on the Prevention of Money Laundering and Monetary Infringements (*Comisión de Prevención del Blanqueo de Capitales e Infracciones*) (Article 44(2) Law 10/2010).

<sup>137</sup> Eleventh Final Provision Law 14/2013.

further to the joint request of the Ministries of Foreign Affairs, Interior Affairs and Economy. This report will be **submitted to the Council of Ministers**. Following the evaluation in the report, the said Council can approve Instructions to establish an entry and stay procedure for **national interest economic reasons** in cases which are not already established by the Law.<sup>138</sup> To date there no such Instructions have been approved. At present, only one report is publicly available: the first report drafted after the entry into force of Law 14/2013, which was issued in 2015 (the 2015 Report).<sup>139</sup>

#### 1.4 INFORMATION ON APPLICATIONS

Law 14/2013 does **not establish an obligation to disclose the names of successful applicants**. This could be in contradiction with the Organic Law on the on the Protection of Personal Data.<sup>140</sup> On the basis of the Law on Access to Public Information<sup>141</sup> a request for information could be filed with the competent authorities. Nevertheless, the said law also foresees certain limits to the access to public information which are in line with the protection of personal data.<sup>142</sup> This situation makes obtaining the names of successful applicants impracticable.

However, **statistics** are publicly available. The 2015 Report<sup>143</sup> of the MESS on the implementation of Law 14/2013 as regards international mobility (including foreign investors) informs that between 30 September 2013 and 31 December 2014 a total of 531 visa and/or residence authorisations were granted to investors (this data does not include family members). This represents 17% of all visa types included in Article 61 of Law 14/2013 (investors, entrepreneurship, highly qualified professionals, research and intra-corporate transfers). The total value of investments was EUR 446,843,921.<sup>144</sup> Official statistics from the MESS are only available for the reference period 30 September 2013 and 31 December 2014. Table 3 below shows the total investments per type and the value they represent in the total investments made.

More recent statistics were reported in newspaper articles on the basis of a Report of the Ministry of Economy.<sup>145</sup> This data is reflected in Section V of this Report. However, the original source of the Ministry of Economy has not been found. The consulted representative of the General Secretariat on Migration could not confirm whether or not such report exists.<sup>146</sup> The MESS also has a specific online portal on statistics.<sup>147</sup> However, such statistics, even if very complete, only report on the number of foreigners who obtained residence permits or nationality, without disaggregating the data per type of permit. Thus, no specific statistical information on the investors' residence permits is available.

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<sup>138</sup> Eleventh Final Provision Law 14/2013

<sup>139</sup> MESS, 'Report on the implementation on the Section on International Mobility of Law 14/2013 of 27 September on the support to entrepreneurs and their internationalisation' (*Informe sobre la aplicación de la Sección de Movilidad Internacional de la Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización*), April 2015, available at [http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14\\_2013/documentacion/Informe\\_anual\\_de\\_la\\_Seccion\\_de\\_Movilidad\\_de\\_la\\_ley\\_14\\_2013.pdf](http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14_2013/documentacion/Informe_anual_de_la_Seccion_de_Movilidad_de_la_ley_14_2013.pdf) (2015 MESS Report).

<sup>140</sup> Organic Law 15/1999 of 13 December on the Protection of Personal Data (*Ley Orgánica 15/1999, de 13 de diciembre, de Protección de Datos de Carácter Personal*), Official Gazette 298/1999, BOE-A-1999-23750, available at <https://www.boe.es/buscar/act.php?id=BOE-A-1999-23750> (LOPD).

<sup>141</sup> Law 19/2013 of 9 December on transparency, access to public information and good governance (*Ley 19/2013, de 9 de diciembre, de transparencia, acceso a la información pública y buen gobierno*), Official Gazette No. 295/2013, BOE-A-2013-12887, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2013-12887> (Law 19/2013).

<sup>142</sup> Articles 14 and 15 Law 19/2013.

<sup>143</sup> 2015 MESS Report.

<sup>144</sup> 2015 MESS Report.

<sup>145</sup> El País, 'Russian and Chinese citizens monopolise the visas granted for real estate investments' (*Rusos y chinos acaparan los visados por compra de casas*), May 2018, available at [https://cincodias.elpais.com/cincodias/2018/05/04/midinero/1525450395\\_341550.html](https://cincodias.elpais.com/cincodias/2018/05/04/midinero/1525450395_341550.html).

<sup>146</sup> Information gathered through consultation with national stakeholder (representative of the General Secretariat on Migration, competent authority, 21 June 2018).

<sup>147</sup> MESS, 'Immigration Portal. Statistics' (*Portal de Inmigración. Estadísticas*), available at <http://extranjeros.empleo.gob.es/es/Estadisticas/index.html>.

**Table 3 - Type of investment and value they represent (EUR and %) (30 September 2013 – 31 December 2014)**

Type of investment	Total number of investments	% represented in the total of investments	Value (€)	% represented in the total value of investment
Assets	29	5.46	37,543,696	8.4
Real estate	490	92.28	369,766,625	82.75
Business project	12	2.26	39,533,600	8.85
<b>Total</b>	<b>531</b>	<b>100</b>	<b>446,843,921</b>	<b>100</b>

The 2015 Report also provides information on the country of origin of the investors per type of investment in the reference period (30 September 2013 - 31 December 2014).

- **Real estate investments**

**Table 4 Number and value of real estate investments per country of origin**

Country	No. of investments	% of the total real estate investments made	Value (€)	% of the total value of investment
Russia	169	34.5	144,215,240	39
China	168	34.3	108,318,001	29.3
Ukraine	14	2.9	10,827,160	2.9
Egypt	13	2.7	8,781,043	2.4
Lebanon	11	2.2	6,833,000	1.8
Venezuela	10	2	11,572,085	3.1
US	9	1.8	7,209,500	1.9
<b>Total main 7 (above)</b>	<b>394</b>	<b>80.4</b>	<b>297,756,029</b>	<b>80.5</b>
Rest	96	19.6	72,010,596	19.5
<b>Total</b>	<b>490</b>	<b>100</b>	<b>369,766,625</b>	<b>100</b>

- **Financial assets investments**

**Table 5 Number and value of financial assets investments per country of origin**

Country	No. of investments	% of the total real estate investments made	Value (€)	% of the total value of investment
Russia	13	44.8	15,288,527	40.7
Ukraine	5	17.2	8,260,000	22
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
US	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

Country	No. of investments	% of the total real estate investments made	Value (€)	% of the total value of investment
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</b>	<b>37,543,696</b>	<b>100</b>

- **Business projects investments**

**Table 6 Number and value of business projects investments per country of origin**

Country	No. of investments (business projects set up)	% of the total business project investments made
Iraq	3	25
Egypt	2	16.7
China	1	8.3
US	1	8.3
Russia	1	8.3
Philippines	1	8.3
India	1	8.3
Mexico	1	8.3
Uzbekistan	1	8.3
<b>Total</b>	<b>12</b>	<b>100</b>

## 1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

Law 14/2013 prescribes that the following **family members** accompanying or joining the investor can also **request the residence authorisation** and, if applicable, the corresponding **visa**:<sup>148</sup>

- the spouse or person with a similar relation (*relación análoga de afectividad*) which exists when it is included in a public register established for that matter or, if not registered, it is proved;<sup>149</sup>
- children under 18 or above that age who depend economically on the investor and who have not formed their own family unit; and
- dependent ascendants<sup>150</sup>

Investors' family members can **apply** by themselves, **in group** (if more than one family member is requesting the visa, for example, in the case of reunification of the whole family unit, including ascendants), and **simultaneously or successively to the application filed by the foreign investor** for an investors' residence visa and residence authorisation.

<sup>148</sup> Article 62(4) Law 14/2013 refers to the family members of all individuals regulated by the section on international mobility of Law 14/2013 (investors, entrepreneurs, highly qualified professionals, researchers and intra-corporate transfers). For the purposes of this Report, only the family members of foreign investors are referred to.

<sup>149</sup> Article 53(b) RELOEX. In order to prove a similar relation to marriage public documents take prevalence to other kind of documents; however, any means of evidence to prove the existence of such relationship are admissible.

<sup>150</sup> 'Dependent' in this context means individuals who economically depend of the investor. MESS, Informative brochure, 'Family reunification of foreigners in Spain' (*La reunificación familiar de los extranjeros en España*), available at [http://extranjeros.empleo.gob.es/es/InformacionInteres/FolletosInformativos/archivos/triptico\\_reagrupacion\\_familiar.pdf](http://extranjeros.empleo.gob.es/es/InformacionInteres/FolletosInformativos/archivos/triptico_reagrupacion_familiar.pdf).

Family members must fulfil the same **general criteria** stated above regarding the issuance of the investors' residence permit,<sup>151</sup> except for the requirement on proving sufficient economic resources and, in the case of minors, having a clean criminal record.<sup>152</sup>

Once the foreigner has all the necessary documents to support the application, s/he will go **in person** to the **authorised border crossing** and prove that they fulfil the requirements described above.<sup>153</sup> If the competent authorities consider the presented documentation to comply with the legal provisions and that there is no prohibition or impediment on the entry of the holder of the documentation in the Spanish territory, the passport or travel document will be stamped (where applicable) and the foreigner will be allowed to enter the Spanish territory.<sup>154</sup>

Since the application for an investors' residence authorisation is processed following the Single Permit Directive (2011/98/EU)<sup>155</sup> and family members can present their applications together with the investor,<sup>156</sup> such applications will be processed in a single procedure (explained above in Section II.1) and issued at the same time.

The 2015 Report of the MESS on the implementation of Law 14/2013<sup>157</sup> as regards international mobility states that, in the reporting period (30 September 2013 - 31 December 2014), 2,461 permits (including both authorisations and visas) were granted to family members. However, the data covers in general the family members of all individuals covered by Law 14/2013 as regards international mobility (i.e. investors, entrepreneurs, highly qualified professionals, researchers and intra-corporate transferees) and is not disaggregated. Therefore, it is impossible to know the number of applications that were filed by investors' family members and, thus, the number of successful and rejected applications.

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<sup>151</sup> Article 62(4) Law 14/2013.

<sup>152</sup> The Ministry of Foreign Affairs has issued an informative note on Law 14/2013 which is available in the Spanish Embassies' websites; for example, website of the Spanish Embassy in Cape Town, available at [http://www.exteriores.gob.es/Consulados/CIUDADDELCABO/es/ServiciosConsulares/ServiciosConsularesCiudaddelCabo/Documents/Visados/Visado\\_nacional\\_inversores\\_capital\\_30\\_octubre\\_2017.pdf](http://www.exteriores.gob.es/Consulados/CIUDADDELCABO/es/ServiciosConsulares/ServiciosConsularesCiudaddelCabo/Documents/Visados/Visado_nacional_inversores_capital_30_octubre_2017.pdf).

<sup>153</sup> Article 12(1) RELOEX.

<sup>154</sup> Article 12(2) RELOEX.

<sup>155</sup> Fourth Additional Provision Law 14/2013.

<sup>156</sup> Article 62(4) Law 14/2013.

<sup>157</sup> 2015 MESS Report.



## 2 TYPE OF INVESTMENT<sup>158</sup>

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>To issue an investors' residence visa and an investors' residence authorisation a "significant capital investment" is required – meaning <b>any one of</b> any of the investments listed below.<sup>159</sup></p> <p>Apart from the investment, the foreign investor has to pay an application fee.</p>	<p>There are three financial thresholds depending on the type of investment (from EUR 500,000 to EUR 2 million).</p> <p>In addition, the following <b>fees</b> must be paid:</p> <ul style="list-style-type: none"> <li>▪ EUR 60 – visa</li> <li>▪ EUR 70,40 - authorisation</li> <li>▪ EUR 75,60 - renewal</li> </ul> <p><b>TOTAL: EUR 206</b></p>	<p>Regardless of the type of the investment, the fulfilment of the investment requirement (i.e. that the investment has been made and it is in line with the legal requirements) is <b>checked</b> at the time of <b>filing an application for an investors' residence visa</b><sup>160</sup> and, again, at the time of filing an <b>application for an investors' residence authorisation</b>.<sup>161</sup> However, in some instances, the means of evidence are different depending on the permit (visa or authorisation) applied for (see below).</p> <p>The <b>significant capital investment</b> can also be carried out by a legal person, registered in a territory that is not considered a tax haven according to Spanish regulations, and when the investor owns in this legal person, directly or indirectly, the majority of its voting rights and has the power to appoint or dismiss the majority of the members of its administrative body.<sup>162</sup> In this case, when an application for an <b>investors' residence visa</b> is filed, a favourable report of the Economic and Commercial Office (<i>Oficina Económica y Comercial</i>)<sup>163</sup> of the geographical demarcation area where the investor files the application must be presented.<sup>164</sup> In the case where the application is for an <b>investors' residence authorisation</b>, the competent authority to issue the said report is the General Directorate of International Trade and Investments of the Ministry of Economy and Competitiveness.<sup>165</sup></p>	<p>In checking that the investment qualifies as a significant capital investment in the meaning of Law 14/2013, the competent authorities are:</p> <ul style="list-style-type: none"> <li>▪ for an <b>investors' residence visa</b>, the consulate or diplomatic mission<sup>166</sup></li> <li>▪ for an <b>investors' residence authorisation</b>, the UGE-CE<sup>167</sup></li> </ul>

<sup>158</sup> For the purposes of this Table, the term 'investment' covers any pecuniary disbursement required as part of the process for obtaining residence under the investors' residence scheme.

<sup>159</sup> Article 63(2) Law 14/2013

<sup>160</sup> Article 63(2) and 64 Law 14/2013.

<sup>161</sup> Article 66(2) and (3) Law 14/2013.

<sup>162</sup> Article 75(1) Law 14/2013.

<sup>163</sup> This Office is part of the consulate or diplomatic mission competent to receive, examine and issue the corresponding visa.

<sup>164</sup> Article 64(d) Law 14/2013.

<sup>165</sup> Article 66(2)(d) and (3) Law 14/2013.

<sup>166</sup> Article 63(1) Law 14/2013.

<sup>167</sup> Article 66(1) Law 14/2013.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion			Competent authorities and non-public bodies
An initial investment in <b>Spanish public debt securities</b>	At least EUR 2 million	The table below shows the timing to present the necessary evidence and the possible evidence means depending on whether the application is for an investors' residence visa or an investors' residence authorisation.			This means that the consulate or diplomatic mission carries out the same assessment as the UGE-CE. Foreign investors may apply for an investors' residence <b>authorisation</b> when they have entered the Spanish territory on the basis of (a) an investors' residence visa; or (b) any other entry visa (see Section I). Therefore, the checks carried out by the UGE-CE for an investor who already holds an investors' residence visa are easier as these checks have already been carried out when applying for
An initial investment in <b>investment funds, close-end investment funds or venture capital funds</b> set up in Spain	At least EUR 1 million	<b>Type of application</b>	<b>Application for an investors' residence VISA<sup>169</sup> and for an application for an investors' residence AUTHORISATION when the applicant does not hold a previous residence visa but is legally in Spain<sup>170</sup></b>	<b>Application for an investors' residence AUTHORISATION and the applicant holds a previous residence visa<sup>171</sup></b>	
<b>Bank deposits</b> in Spanish financial institutions	At least EUR 1 million	<b>Timing and type of investment</b>	<b>Timing to present the evidentiary documents</b>	<b>Together with the application</b> for a residence authorisation for investors. <sup>173</sup> In any case, the <b>certificates</b> listed below must be <b>dated at least within the 30 days prior to the submission of the application</b> for an investors' residence authorisation. <sup>174</sup>	
			When the investment consists in <b>non-tradable shares or in</b>	<b>statement</b> of the investment made in the <b>Foreign Investment Registry</b> of the Ministry of Economy and Competitiveness ( <i>Registro de Inversiones</i> )	
				<b>notary's certificate</b> proving that the investor has continued to own the non-tradable shares or company shares during the reference period (i.e. period of validity of the investors' residence visa – at least 1 year). <sup>177</sup>	

<sup>169</sup> Article 64(a) Law 14/2013.

<sup>170</sup> Article 66(3) Law 14/2013.

<sup>171</sup> Article 66(2)(a) Law 14/2013.

<sup>172</sup> Article 64(a) Law 14/2013.

<sup>173</sup> Article 66(2)(a) Law 14/2013.

<sup>174</sup> Article 66(2)(a)(1) to (4) Law 14/2013.

<sup>177</sup> Article 66(2)(a)(1) Law 14/2013.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion			Competent authorities and non-public bodies
		<b>company shares</b> <sup>175</sup>	<i>Exteriores del Ministerio de Economía y Competitividad</i> ). <sup>176</sup>		<p>the visa. That is why, for example, the documentation required (see second column of the Table) differs.</p> <p>The <b>competent authorities to issue the necessary evidentiary documents</b> are mentioned in the previous columns. Spanish law does not expressly establish that the competent authorities to issue the corresponding permit (whether a visa or an authorisation) must collaborate with the authorities issuing the mentioned</p>
When the investment consists in <b>tradable shares</b>	<b>certificate from the financial intermediary</b> , duly registered with the CNMV or with the Bank of Spain stating that the interested party has made the investment for the purpose of the investor's visa, in case of investment made through listed shares.	certificate from the financial intermediary stating that the investor has kept the investment at an average value of EUR 1 million invested in shares from the issuance date of the investors' residence visa <sup>178</sup>			
When the investment is in <b>public debt</b>	<b>certificate from the financial institution or the Bank of Spain</b> stating that the applicant is the sole owner of the investment for a period of 5 years or more	certificate from the financial institution or the Bank of Spain stating: (a) the investment has been kept or increased since the date in which the investors' residence visa was granted; (b) the number of public debt titles acquired by the investor at the time when the initial investment was made <sup>179</sup>			
When the investment is in <b>investment funds, close-</b>	<b>certificate of the fund's management company</b> , set up in Spain, duly registered with the CNMV certifying that the investment has been made	same certificate of the fund's management company but now stating that the investor has kept, since the issuance date of the investors' residence visa, at least in an			

<sup>175</sup> It should be noted that the Spanish commercial legislation uses different terms for the shares of limited liability companies (*sociedades de responsabilidad limitada*) and the shares of public limited companies (*sociedades anónimas*): while the former are called *participaciones (sociales)*, the former are called *acciones*. These terms only translate into English under the generic term “shares”. For the purposes of this Report, *participaciones* are called ‘company shares’ and *acciones* are simply called ‘shares’. Article 90 of the Royal Legislative Decree 1/2010 of 2 July “approving the recast Joint-stock Companies Law” (*Real Decreto Legislativo 1/2010, de 2 de julio, por el que se aprueba el texto refundido de la Ley de Sociedades de Capital*) State Gazette 161/2010, BOE-A-2010-10544 available at <https://www.boe.es/buscar/act.php?id=BOE-A-2010-10544>.

<sup>176</sup> For such purposes, the Ministry of Economy and Competitiveness has approved standardised by Annex I to Decision of 27 of July of 2016 (*Resolución de 27 de julio de 2016, de la Dirección General de Comercio Internacional e Inversiones, por la que se aprueban los modelos de declaración de inversiones exteriores cuando el obligado a declarar es inversor o empresa con participación extranjera y que sustituye a las anteriores Resoluciones en esta materia*), State Gazette 194/2016, BOE-A-2016-7855, available at [https://boe.es/diario\\_boe/txt.php?id=BOE-A-2016-7855](https://boe.es/diario_boe/txt.php?id=BOE-A-2016-7855).

<sup>178</sup> Article 66(2)(a)(2) Law 14/2013.

<sup>179</sup> Article 66(2)(a)(3) Law 14/2013.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion			Competent authorities and non-public bodies
		<b>end investment funds or venture capital funds</b>		average value of EUR 1 million invested in an investment fund <sup>180</sup>	documents. However, this can be implied from the general principle of administrative law of solidarity among public authorities. <sup>168</sup>
		When the investment is a <b>bank deposit</b>	<b>certificate from the financial institution</b> stating that the applicant is the sole holder of the bank deposit	same certificate from the financial institution now stating that the investment has been kept or increased since the issuance date of the investors' residence visa <sup>181</sup>	
Acquisition of <b>real estate</b> property in Spain	EUR 500,000 per applicant <sup>182</sup>	<p>When the application is filed for an <b>investors' residence visa</b>, the applicant must prove that he/she acquired the property by presenting a <b>certificate on ownership and encumbrances of the Property Registry</b>, which:<sup>183</sup></p> <ul style="list-style-type: none"> <li>■ may include an electronic verification code for online consultation;</li> <li>■ includes the amount of the acquisition; otherwise, this should be proved by providing the corresponding real estate sale public deed;</li> <li>■ certifies that the property is free of encumbrances (e.g. mortgage) for a value of at least EUR 500,000 (if the value of the immovable property exceeds this amount, the rest can be subject to said encumbrances)</li> </ul> <p>Where the application is for an <b>investors' residence authorisation and the applicant holds a prior investors' residence visa</b> such certificate must be dated within at least <b>90 days prior to the submission of the application</b>.<sup>184</sup></p>			

<sup>180</sup> Article 66(2)(a)(4) Law 14/2013.

<sup>181</sup> Article 66(2)(a)(5) Law 14/2013.

<sup>168</sup> Real Ferrer, G., ' [The principle of] Solidarity in administrative law' (*La solidaridad en el Derecho Administrativo*, available at <https://dialnet.unirioja.es/descarga/articulo/721284.pdf>).

<sup>182</sup> The reference to 'per applicant' in the Spanish legislation is due to the fact that the acquisition might be carried out by a married couple. Specifically, Article 63(4) Law 14/2013 provides that when the investments in, inter alia, real estate are carried out by a married couple who has a common property regime or an analogous regime (i.e. a regime in which all goods belong to the couple and are not distinguished per member of the couple) and the amount of the investment does not amount at least to double of the thresholds therein set, it shall be deemed that the investment has been carried out by only one of the members of the couple. The other spouse may, instead of applying for an investors' residence visa, may apply for a family member visa as explained in Section II.1.5 of this Report.

<sup>183</sup> Article 64(b) Law 14/2013.

<sup>184</sup> Article 66(2)(b) Law 14/2013.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
		<p>If at the time of application for an <b>investors' residence visa</b> the <b>acquisition of the property is in the process of registration with the Property Registry</b>, the applicant must provide the certificate of the Registry proving the registry entry for the document on the acquisition of the real estate property, accompanied by documentation accrediting the payment of the corresponding taxes.</p> <p>The 2015 amendment added that in case <b>the purchase of the real estate property(ies) is not formalised at the time of filing the application</b> for the investors' residence visa or at the time of filing the application for the investors' residence authorisation where the applicant does not hold a prior visa but is legally residing in Spain <b>and there is a pre-contract with guarantee of compliance</b> (i.e. ensuring that the purchase will be completed) by means of a deposit or other means admitted in law and reflected in a public deed, s/he must <b>present the pre-contract together with a certificate from a financial institution</b> established in Spain in which it can be ascertained that the applicant has a <b>bank deposit of which s/he cannot dispose</b> with the amount necessary for the acquisition of the real estate property(ies), including an indication of the charges and taxes. The amount of the deposit can only be used for the final purchase of the property or properties indicated in the pre-contract.</p>	
<p>A <b>business project</b> to be developed in Spain and that is considered and certified as being of <b>general interest</b>, for which compliance with <b>at least one of the following conditions</b> will be assessed:</p>	<p>N/A (no financial threshold is set)</p>	<p>Where the investor applies for an <b>investors' residence visa</b>, the application must be accompanied by a favourable report of the Economic and Commercial Office of the geographical jurisdictional area where the investor submits the visa application. The report aims to verify that there is a general interest in the presented business project as an investment.<sup>185</sup> In the case of an application for an <b>investors' residence authorisation</b> the competent authority to issue this report is the General Directorate of International Trade and Investments of the Ministry of Economy and Competitiveness.<sup>186</sup> Where the investor holds a prior residence visa, the report aims to certify that the conditions present when the visa was issued have not ceased to exist.<sup>187</sup> Where the investor does not hold a prior residence visa but is legally in Spain, the report aims to verify that the business project meets the conditions set in the law.<sup>188</sup></p> <p>If the <b>investor appoints a representative for the management of the project</b>, the Economic and Commercial Office will assess the need of intervention of the representative for the good</p>	

<sup>185</sup> Article 64(c) Law 14/2013.

<sup>186</sup> Article 66(2)(c) and (3) Law 14/2013.

<sup>187</sup> Article 66(2)(c) Law 14/2013.

<sup>188</sup> Article 66(3) Law 14/2013.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>1. <b>Creation of jobs.</b></p> <p>2. Carrying out an investment with <b>relevant socioeconomic impact in the geographical area</b> in which the activity will be developed.</p> <p>3. Making a <b>relevant contribution to scientific and/or technological innovation.</b></p>		<p>management of the project.<sup>189</sup> Although this is only required as regards the issuance of the <b>investors' residence visa</b>, it is deemed that the same will apply when the permit concerned is the <b>investors' residence authorisation</b> as it would still be of paramount importance that the qualifications of the management representative are examined.</p>	

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<sup>189</sup> Article 64(c) Law 14/2013.

### 3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p>The <b>Investors' residence visa</b> grants the applicant the right to reside and work in Spain for 1 year<sup>190</sup> (or 6 months when the investment is in real estate and the purchase has not been formalised at the time of filing the application but there is</p>	<p>One of the requirements to obtain the investors' residence visa is to prove that the <b>applicant has secured an accommodation for the whole duration of the intended residence or proves to have sufficient means</b> to cover such accommodation.<sup>192</sup> The fulfilment of this requirement is examined by the consulate or diplomatic mission – once the application has been filed.<sup>193</sup> Regulation 810/2009 also foresees the possibility that <b>the consulate or diplomatic mission, following their own discretion, in justified cases, requests the applicant to appear in person for a personal interview</b> and to present <b>additional documents</b>.<sup>194</sup> In practice, this interview is seldom carried out; the interview only takes place in cases where the documentation provided needs to be clarified, where the applicant requests a meeting with the consulate or where the investment is of special interest (e.g. because it is a business project that is particularly innovative). Since it depends on the discretion of the consulate to decide whether or not an interview is necessary, no standardised forms or guidelines exist regarding such interviews.<sup>195</sup></p>	<p>The <b>consulates or diplomatic missions receive and examine the application</b> for an investors' residence visa.<sup>201</sup> In doing so, they review whether all legal requirements to issue the visa are met including, inter alia, the requirement to prove that an accommodation has been secured (or that sufficient economic means are owned to procure one). For such purposes, the competent authority may <b>consult the central authorities</b>,<sup>202</sup> (e.g. the police authorities or migration regional office of the place where the investor</p>	<p>Law 14/2013 provides that <b>Regulation 810/2009</b> applies to the procedure to process investors' residence visas.<sup>205</sup> Such Regulation only provides for the <b>extension in extraordinary cases</b>.<sup>206</sup></p> <p>Therefore, the <b>logical way to extend the investor's residence</b> in Spain, while the visa is still in force or after it has expired, will be by <b>applying for an investors' residence authorisation</b>.<sup>207</sup></p>

<sup>190</sup> Article 63(1) Law 14/2013.

<sup>192</sup> Article 14(1)(b) Regulation 810/2009.

<sup>193</sup> Article 75(1) Law 14/2013.

<sup>194</sup> Article 21(8) Regulation 810/2009.

<sup>195</sup> Information gathered through consultation with national stakeholder (representatives of Consulate of Spain in Los Angeles and General Secretariat on Migration, competent authorities, 20 and 21 June 2018, respectively).

<sup>201</sup> Article 75(1) Law 14/2013.

<sup>202</sup> Article 22 Regulation 810/2009.

<sup>205</sup> Article 75(1) Law 14/2013. The procedure for the extension of the period of validity of visas is foreseen in Article 33 of Regulation 810/2009.

<sup>206</sup> Proof of force majeure or humanitarian reasons preventing the applicant from leaving the territory or proof of serious personal reasons.

<sup>207</sup> Article 66(2) Law 14/2013.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
only a pre-contract) <sup>191</sup>	<p><b>During the period of validity of the investors' residence visa</b>, the criteria (including the accommodation criterion) must continue to be fulfilled.<sup>196</sup> Any <b>changes</b> must be notified to the DGM within 30 days from the change.<sup>197</sup> The competent authorities may implement the necessary measures to monitor that such conditions continue to be met<sup>198</sup> (e.g. in cooperation with police officers the DGM may check whether the place of residence indicated in the application continues to be the same by visiting the address). If as a result of such control the DGM concludes that the conditions have ceased to exist, it can, in a reasoned way, <b>withdraw</b> the residence visa, after hearing the affected parties.<sup>199</sup></p> <p>The legislation does not provide a list of the documentation to prove that an accommodation has been secured. This can be any means offered by the law (e.g. rental contract, domiciled bank account).<sup>200</sup></p>	<p>intends to establish his/her residence).<sup>203</sup></p> <p>Once the <b>visa</b> is <b>granted</b> and issued, the <b>competent authority to verify and monitor that the conditions that justified its issuance continue to exist</b> is the <b>DGM</b> as the investor is already in the Spanish territory and the competent authority therein to monitor migration is the DGM.<sup>204</sup></p>	
The <b>Investors'</b>	At the time of applying for an <b>investors' residence authorisation</b> the applicant can be in either of the following situations:	Applications for an investors' residence authorisation are	Law 14/2013 only specifies that renewal procedures are to be carried out through <b>electronic means</b> (through the

<sup>191</sup> Article 64(b) Law 14/2013.

<sup>196</sup> Seventh Additional Provision (1) Law 14/2013.

<sup>197</sup> Seventh Additional Provision (2) Law 14/2013.

<sup>198</sup> Seventh Additional Provision (3) Law 14/2013.

<sup>199</sup> Seventh Additional Provision (4) Law 14/2013.

<sup>200</sup> Information gathered through consultation with national stakeholder (representatives of Consulate of Spain in Los Angeles and General Secretariat on Migration, competent authorities, 20 June and 21 June 2018, respectively).

<sup>203</sup> Information gathered through consultation with national stakeholder (representatives of Consulate of Spain in Los Angeles and General Secretariat on Migration, competent authorities, 20 June and 21 June 2018, respectively).

<sup>204</sup> Royal Decree 703/2017, developing the basic organisational structure of the Ministry of Employment and Social Security and modifying Royal Decree 424/2016, of 11 November, establishing the organisational structure of ministerial departments (*Real Decreto 703/2017, de 7 de julio, por el que se desarrolla la estructura orgánica básica del Ministerio de Empleo y Seguridad Social y se modifica el Real Decreto 424/2016, de 11 de noviembre, por el que se establece la estructura orgánica básica de los departamentos ministeriales*), State Gazette 162 of 8 July 2017, BOE-A-2017-7979, available at <https://www.boe.es/buscar/act.php?id=BOE-A-2017-7979>. And, specifically as regards the investors' residence in Spain, Article 66(1) Law 14/2013.



Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p><b>residence authorisation</b> grants the right to reside and work for 2 years<sup>208</sup> (or 6 months when the investment is in real estate and the purchase has not been formalised at the time of filing the</p>	<ul style="list-style-type: none"> <li>■ The applicant <b>holds an investors' residence visa</b> (whether still in force or whether 90 days have passed since the end of the period of validity of the visa): <ul style="list-style-type: none"> <li>- in this case, the applicant must prove that <b>the conditions that justified the issuance of the investors' residence visa in the first place continue to exist</b> and, thus, inter alia, that the applicant has <b>accommodation</b> or the necessary means to procure one<sup>210</sup></li> <li>- furthermore, since the applicant must hold a residence visa this means that the applicant must have been <b>physically present</b><sup>211</sup> in Spain for at least six months<sup>212</sup></li> </ul> </li> <li>■ The applicant <b>does not hold an investors' residence visa but is legally residing in Spain</b><sup>213</sup> (e.g. under a stay visa with a temporary residence authorisation):</li> </ul>	<p>processed by the <b>UGE-CE</b>.<sup>220</sup> The UGE-CE monitors and verifies whether the applicant meets the legal requirements (including regarding residence) at the time of filing the application.<sup>221</sup></p> <p>The authorisation is granted by the <b>DGM</b>.<sup>222</sup> The DGM <b>examines whether the conditions that justified the issuance of the authorisation in the first place continue to exist during the period of</b></p>	<p>platform created by the MESS)<sup>225</sup> and that the <b>DGM may collect the necessary reports to decide on the maintenance of the conditions</b> that generated the right (of residence and work granted by the authorisation).<sup>226</sup></p> <p>The <b>application</b> for renewal must be <b>filed</b> within the period of validity of the existing residence authorisation or in the 90 days after this period of validity has expired.<sup>227</sup></p> <p>For the renewal of the investors' residence authorisation it is necessary that <b>the legal conditions that justified the issuance of the residence authorisation the first time continue to exist</b>.<sup>228</sup> For such purposes, the DGM may adopt the necessary measures to check that such conditions are still fulfilled.<sup>229</sup> According to the General Secretariat on Migration,<sup>230</sup> applicants must resubmit all the same documentation submitted with the initial application for the investors' residence authorisation. Therefore, it can</p>

<sup>208</sup> Article 67(1) Law 14/2013.

<sup>210</sup> Article 66(1) and (2) Law 14/2013 in relation with Article 14(1)(b) Regulation 810/2009, as the requirements of such Regulation have to be met to issue the investors' residence visa as set by Article 75(1) Law 14/2013.

<sup>211</sup> The Sixth Additional Provision Law 14/2013 prescribes that for the renewal of the residence permit (whether an authorisation or a visa) the investor can leave the territory for periods of six months in a year. *Sensu contrario*, this means that the rest of the time the investor must be physically in Spain.

<sup>212</sup> Article 64(b) Law 14/2013 sets that the investors' residence visa will be issued only for six months when the investment consists in the purchase of real estate property and the purchase has not been formalised but a pre-contract exists.

<sup>213</sup> Article 66(3) Law 14/2013.

<sup>220</sup> Article 76(1) Law 14/2013

<sup>221</sup> Article 66(1) Law 14/2013.

<sup>222</sup> Article 76(1) Law 14/2013

<sup>225</sup> MESS website, Electronic Office of the General Directorate of Migrations, Applications on International Mobility (authorisations regulated by Law 14/2013), available at <https://expinterweb.empleo.gob.es/ley11/inicio/showTramites.action?procedimientoSel=200&proc=5>. As explained, Law 14/2013 also regulates the residence authorisations of other categories of individuals apart from foreign investors (entrepreneurs, highly qualified professionals and intra-corporate transfers).

<sup>226</sup> Article 76(2) Law 14/2013.

<sup>227</sup> Article 76(2) Law 14/2013.

<sup>228</sup> Article 67(2) in relation to Seventh Additional Provision Law 14/2013.

<sup>229</sup> Seventh Additional Provision (3) Law 14/2013.

<sup>230</sup> Information gathered through consultation with national stakeholder (representative of the General Secretariat on Migration, competent authority, 21 June 2018).

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
application but there is a pre-contract) <sup>209</sup>	<ul style="list-style-type: none"> <li>s/he must meet the general requirements of Regulation 810/2009<sup>214</sup> which includes <b>proof of having secured an accommodation</b> or having sufficient financial means for it<sup>215</sup></li> <li>furthermore, since the applicant has to be legally residing in Spain, this means that proof of such residence must be provided and, thus, that the applicant must be <b>physically present</b> in Spain.</li> </ul> <p>Furthermore, as with the investors' residence visa, <b>the conditions that justify the granting and issuance of an investors' residence authorisation must be maintained during the period of validity of the authorisation</b><sup>216</sup> (at least six months).<sup>217</sup> As explained in the row above, if any <b>changes</b> to such circumstances occur, the DGM may implement the necessary measures to monitor that such conditions continue to be met<sup>218</sup> and, if as a result of such control the DGM concludes that the conditions have ceased to exist, it can, in a reasoned way, <b>withdraw</b> the residence authorisation, after hearing the affected parties.<sup>219</sup></p>	<p><b>validity of the authorisation.</b><sup>223</sup> For such purposes, it may implement the necessary monitoring measures<sup>224</sup> (e.g. in cooperation with police officers the DGM may check whether the place of residence indicated in the application continues to be the same by visiting the address).</p>	<p>be concluded that the <b>renewal procedure follows the same procedural steps to grant the first-time application</b> (see Section II.1.1 of this Report).</p> <p>If the <b>renewal is granted</b>, the <b>duration</b> of the <b>new residence authorisation</b> is of <b>five years</b>.<sup>231</sup> The application for a renewal of the investors' residence authorisation <b>extends the validity of the existing authorisation until the renewal procedures are completed</b>.<sup>232</sup></p> <p>The renewal of the investors' residence authorisation is also <b>possible even if the investor has been absent from the Spanish territory for more than six months a year</b>.<sup>233</sup> This means, however, that the for rest of the time for which the authorisation has been issued, the applicant must be <b>physically in Spain</b>. This possibly creates a loophole for investors who invest in real estate, when the authorisation is just issued for six months if the purchase has not been formalised at the time of filing the application but a pre-contract exists.<sup>234</sup> In this case, the renewal can take place without the investor physically being in Spain.<sup>235</sup></p>

<sup>209</sup> Article 66(3) Law 14/2013.

<sup>214</sup> Article 66(3) by cross-reference to Article 62 Law 14/2013.

<sup>215</sup> Article 14(1)(b) Regulation 810/2009.

<sup>216</sup> Seventh Additional Provision (1) Law 14/2013.

<sup>217</sup> Article 66(3) Law 14/2013 sets that the investors' residence authorisation will be issued only for six months when the investment consists in the purchase of real estate property and the purchase has not been formalised but a pre-contract exists.

<sup>218</sup> Seventh Additional Provision (3) Law 14/2013.

<sup>219</sup> Seventh Additional Provision (4) Law 14/2013.

<sup>223</sup> Seventh Additional Provision (1) and (2) Law 14/2013.

<sup>224</sup> Seventh Additional Provision (3) Law 14/2013.

<sup>231</sup> Article 67(2) Law 14/2013.

<sup>232</sup> Article 76(2) Law 14/2013.

<sup>233</sup> Sixth Additional Provision Law 14/2013.

<sup>234</sup> Article 66(3) Law 14/2013.

<sup>235</sup> Information gathered through consultation with national stakeholder (representative of the General Secretariat of Migration, competent authority, 21 June 2018).

## 4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p><b>Security checks on the applicant's background</b></p> <p>To obtain an <b>investors' residence visa</b> the entry requirements set in Regulations 810/2009 and 562/2006 must be met.<sup>236</sup> Among these requirements the applicant must not:</p> <ul style="list-style-type: none"> <li>■ represent a threat to public health, national security or the international relations of Spain or of other States with which Spain has an agreement in that regard.<sup>237</sup></li> <li>■ not be a person for whom an <b>alert</b> has been issued in the <b>Schengen Information System</b>.<sup>238</sup></li> </ul>	<p>Checks on the applicant's background are carried out <b>at the time of submission of the application</b> (whether it is for an investors' residence visa<sup>241</sup> or for an investors' residence authorisation<sup>242</sup>).</p> <p>During the procedure to obtain the <b>visa</b>, the diplomatic missions and consular posts can request information from the Directorate-General of the Police to check if the applicant represents a risk for security.<sup>243</sup> The DG of the Police must provide an answer within seven days from receiving the request. Failing this, the answer is considered positive (i.e. the applicant is considered a risk to Spain's security).<sup>244</sup> For such purposes national and international databases (including the Schengen Information System, the Europol Information System and Interpol) are consulted.<sup>245</sup></p> <p>In processing the applications for <b>investors' residence authorisations</b>, the UGE-CE has to check that the conditions that justified issuing an investors' residence</p>	<p>The competent authorities to issue the <b>residence visa for investors</b> are the diplomatic missions and consular offices of Spain.<sup>250</sup> Therefore, documents related to the security checks on the applicant's background (see first column) have to be submitted to them. In examining such documents, the diplomatic missions and consular offices can also request information from <b>the DG of the Police</b> to check if the applicant represents a risk for security.<sup>251</sup></p> <p>The competent authority to examine and process the applications for <b>investors' residence authorisations</b>, including the supporting documents on the applicant's background, is the <b>UGE-CE</b>.<sup>252</sup></p> <p><b>Once the visa and authorisation have been granted</b>, the conditions that justified their issuance have to be maintained.<sup>253</sup> The</p>	<p><b>The DGM can carry out any checks that it considers convenient and necessary to verify that the requirements that justified the issuance of the corresponding permit continue to be fulfilled during the period of validity of the permit.</b> The frequency of such checks is not established by law; rather, they will be carried out at the discretion of the DGM.<sup>257</sup></p>

<sup>236</sup> Article 75 Law 14/2013.

<sup>237</sup> Article 4(1)(g) RELOEX.

<sup>238</sup> Article 6 Regulation (EU) 2016/399.

<sup>241</sup> Article 63 and 75 Law 14/2013.

<sup>242</sup> Article 66 and 76 Law 14/2013).

<sup>243</sup> Article 62(6) Law 14/2013

<sup>244</sup> Article 62(6) and Article 75(1) Law 14/2013.

<sup>245</sup> Report for DG HOME 'Assessing the completeness and conformity of measures of Member States to transpose Council Framework Decision 2006/960/JHA ('Swedish Initiative')'.

<sup>250</sup> Article 75(1) Law 14/2013

<sup>251</sup> Article 62(6) Law 14/2013.

<sup>252</sup> Article 63(1) Law 14/2013.

<sup>253</sup> Seventh Additional Provision Law 14/2013.

<sup>257</sup> Seventh Additional Provision (3) Law 14/2013.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>In addition, when the application is for an <b>investors residence authorisation</b>, Law 14/2013<sup>239</sup> requires the applicant:</p> <ul style="list-style-type: none"> <li>■ not to be illegally in Spain;<sup>240</sup></li> <li>■ not to have criminal records for offences established in the Spanish legal system in Spain and in the countries where the person had his/her residence for the past five years; and</li> <li>■ not to appear as rejected in the territorial area of countries with which Spain has signed an agreement in this regard.</li> </ul>	<p>visa (when the applicant holds such visa at the time of applying for an investors' residence authorisation) are still met; and that the general conditions to issue international mobility authorisations are met.<sup>246</sup> These include the security checks on the applicant's background. Although Law 14/2013 does not specify how such checks are carried out, it is understood that the UGE-CE can also liaise with the DG of the Police to verify that the supporting documents regarding the applicant's background are true and reliable.<sup>247</sup></p> <p>Furthermore, the DGM can monitor and verify that the conditions that justified the issuance of the respective permit (whether a visa or an authorisation) continue to be met during the period of validity of the permit<sup>248</sup> (see <b>ex-post checks</b>, last column).</p> <p>Failure to prove fulfilment of the security requirements may justify the rejection of the application for an investors' residence visa or authorisation.<sup>249</sup></p>	<p>competent authority to verify and monitor this is <b>the DGM</b> which, for such purposes, may gather the necessary reports from the competent authorities.<sup>254</sup></p> <p>The <b>competent central authorities of other Member States</b> may be consulted.<sup>255</sup> Since the requirements of Regulation 810/2009 must be respected in issuing investors' residence visas and authorisations, it is understood that the competent authorities for these permits can consult the central authorities of other Member States as regards the security checks on the applicant's background where appropriate.<sup>256</sup></p>	<p>In carrying out these checks, the DGM may <b>take the measures it considers appropriate</b><sup>258</sup> (e.g. requesting reports from other authorities/entities).<sup>259</sup> If as a result of these checks, the DGM finds that such requirements are no longer satisfied, it may, in a reasoned way and after hearing the holder of the permit, <b>withdraw the corresponding permit</b>,<sup>260</sup> except when the modification in the investment is due to</p>
<p><b>Checks on the origin of the money</b></p>	<p>As stated in Section II.2 ('Type of Investment'), specific certificates have to be presented to prove that the</p>	<p>The competent authorities are the same as the ones listed above. In addition, the</p>	

<sup>239</sup> Article 66(2) in relation with Article 62 Law 14/2013

<sup>240</sup> A third-country nationally is deemed to be illegally in Spain when their stay authorisation has not been renewed, s/he has not obtained the necessary residence authorisation or such authorisation has been expired for over three months or has not requested the renewal of such residence authorisation in the time-frame established by the RELOEX (Article 53(1)(a) LOEX).

<sup>246</sup> Article 66(2) and (3) cross-referring to Article 62 Law 14/2013.

<sup>247</sup> By interpretation of Article 62(5) Law 14/2013

<sup>248</sup> Seventh Additional Provision Law 14/2013.

<sup>249</sup> Article 32(1) Regulation 810/2009.

<sup>254</sup> Article 76(2) in relation with Seventh Additional Provision Law (3) 14/2013.

<sup>255</sup> Article 22 Regulation 810/2009.

<sup>256</sup> Information confirmed through consultation with national stakeholders (Consulate of Spain in Los Angeles and representative of the General Secretariat on Migration, 20 and 21 June 2018, respectively).

<sup>258</sup> Seventh Additional Provision (3) Law 14/2013.

<sup>259</sup> Article 76(2) Law 14/2013.

<sup>260</sup> Seventh Additional Provision (4) Law 14/2013.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>Law 14/2013 does not include a provision on due diligence regarding the origin of the money. However, it does establish the <b>means of evidence to prove that the investment has been carried out</b>.<sup>263</sup> This infers that a certain verification procedure is carried out as regards the investment.</p> <p>Furthermore, to obtain an <b>investor's residence authorisation the obligations of the anti-money laundering law (10/2010)</b> must be met.<sup>264</sup> Law 10/2010 establishes that persons obliged by the law<sup>265</sup> must apply continuous monitoring measures to the business relationship, including the origin of the funds.<sup>266</sup></p>	<p>'significant capital investment' required by law to issue investors' permits has been carried out. Such documents are presented <b>at the time of submission of the application</b> and, thus, examined in the procedure of issuance of the respective permit.</p> <p>Law 10/2010 also provides that the customer due diligence measures, including on the source of the funds, will be carried out <b>before establishing the business relationship</b>.<sup>267</sup> Thus, before the investment is carried out, the authorities competent to issue the corresponding certificate on the fulfilment of the investment requirement (see table in Section II.2 of this Report) will have to verify the lawfulness of the source of the funds.</p> <p><b>Ex-post checks</b> are covered in the last column.</p> <p>Since making a 'significant capital investment' is a <i>conditio sine qua non</i> to issue the corresponding permit, the failure to fulfil this requirement will justify the rejection of the application and, thus, non-issuance of the corresponding permit.<sup>268</sup></p>	<p>following entities are <b>competent to issue the corresponding certificate</b> verifying that the corresponding investment has been carried out and meets the legal requirements:<sup>269</sup></p> <ul style="list-style-type: none"> <li>■ Ministry of Economy and Competitiveness (General Directorate,</li> <li>■ the National Securities Market Commission (<i>Comisión Nacional del Mercado de Valores</i>, CNMV)</li> <li>■ the National Central Bank – Bank of Spain (<i>Banco de España</i>),</li> <li>■ the Property Registry (<i>Registro de la Propiedad</i>),<sup>270</sup> or</li> <li>■ an Economic and Commercial Office of Spain.</li> <li>■ Private entities can also be consulted: a financial intermediary registered with the CNMV when the investment is in traded shares, the financial institution when the investment is in public debt or a bank deposit, and a company managing the investment fund when the investment is in such funds.</li> </ul>	<p>market fluctuation.<sup>261</sup></p> <p><b>No cases of corruption or misuse of the investors' residence visa/authorisation have been reported.</b></p> <p>The Spanish authorities have declared that strict ex-ante and ex-post controls are carried out including, inter alia, on the applicant's background and the source of the funds.<sup>262</sup></p>

<sup>263</sup> Article 64 in relation to Article 66(2) and (3) Law 14/2013.

<sup>264</sup> Article 62(5) Law 14/2013.

<sup>265</sup> Article 2 Law 10/2010, transposing Article 2 AMLD.

<sup>266</sup> Article 6 Law 10/2010 transposing, inter alia, Article 13(1)(d) AMLD.

<sup>267</sup> Article 3(2) Law 10/2010.

<sup>268</sup> Article 32(1) Regulation 810/2009.

<sup>269</sup> The specific evidentiary means these authorities issue to certify that the investment has been carried out are explained in detail in Section II.2 (table on type of investment) of this Report.

<sup>270</sup> The Property Registry registers the acts, contracts and judicial or administrative decisions that affect real estate property and other rights on such property. The Property Registry is attached to the Ministry of Justice and run by the General Directorate of Registers and Notaries (*Dirección General de los Registros y del Notariado*, DGRN). Information available at the website of the Ministry of Justice [http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/registros/registro-propiedad#id\\_1215198094406](http://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/registros/registro-propiedad#id_1215198094406).

<sup>261</sup> Article 67(3) Law 14/2013.

<sup>262</sup> El Diario, 'Golden visas shoot up: 41,000 foreigners obtain permits in exchange of buying luxury houses or by investing millions' (*Los "visados dorados" se disparan: 41.000 extranjeros obtienen papeles por comprar casas de lujo o inversiones millonarias*), March 2018, available at [https://www.eldiario.es/economia/visados-extranjeros-invierten-millones-disparan\\_0\\_753125467.html](https://www.eldiario.es/economia/visados-extranjeros-invierten-millones-disparan_0_753125467.html).

### III. RIGHTS GRANTED BY THE PERMITS

#### 1 RIGHTS GRANTED TO INVESTORS

Both the investors' residence visa and the investors' residence authorisation grant the applicant the **right to reside and work** in Spain.<sup>271</sup> In addition, the rights of third-country nationals legally residing in Spain (thus, including investors who hold the necessary permit, whether it is a visa or an authorisation) are regulated in the Spanish law on aliens (Organic Law 4/2000). In particular, the following rights are recognised and granted under the same conditions as Spanish citizens<sup>272</sup>:

- Right to obtain the necessary documentation certifying their identity and that they are legally staying in Spain<sup>273</sup>
- Right to freedom of movement and establishment in the Spanish territory<sup>274</sup>
- Right to participation in municipal elections and the right to an easy procedure to participate in the elections of their country of origin<sup>275</sup>
- Freedom of assembly and demonstration<sup>276</sup>
- Freedom of association<sup>277</sup>
- Right to education<sup>278</sup>
- Right to work (employed or self-employed)<sup>279</sup>
- Freedom to join and form trade unions/professional organizations and freedom to strike<sup>280</sup>
- Right to healthcare<sup>281</sup>
- Right to the public subsidies on housing<sup>282</sup>
- Right to social services and to access the Social Security System<sup>283</sup>

#### 2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Family members are granted the same rights as the main applicants.<sup>284</sup>

#### 3 OTHER BENEFITS

No other benefits were identified. Under the Spanish law on aliens, third-country nationals legally residing in Spain are subject to the same taxes as Spanish citizens, without prejudice to the international agreements on double taxation.<sup>285</sup>

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<sup>271</sup> Articles 63(1) and 65 Law 14/2013 regarding the investors' residence visa and Fourth Additional Provision Law 14/2013 regarding the investors' residence authorisation.

<sup>272</sup> Article 3(1) LOEX.

<sup>273</sup> Article 4 LOEX, whether it is legal short stay, temporary residence or long-term residence.

<sup>274</sup> Article 5 LOEX.

<sup>275</sup> Article 6 LOEX.

<sup>276</sup> Article 7 LOEX.

<sup>277</sup> Article 8 LOEX.

<sup>278</sup> Article 9 LOEX.

<sup>279</sup> Article 10 LOEX.

<sup>280</sup> Article 11 LOEX.

<sup>281</sup> Article 12 LOEX.

<sup>282</sup> Article 13 LOEX.

<sup>283</sup> Article 14 LOEX. The Spanish Social Security system ensures the persons covered (including third-country nationals and, thus, investors and their family members) the necessary protection (by granting pensions and subsidies) in the situations prescribed by law (e.g. unemployment, maternity, disabilities, etc.) not only linked to the fact that a person has an employment. MESS website, 'General Information. What is the Social Security System?' (*Información general: ¿qué es el Sistema de la Seguridad Social?*), available at [http://www.seg-social.es/Internet\\_1/Trabajadores/Afiliacion/Informaciongeneral/index.htm](http://www.seg-social.es/Internet_1/Trabajadores/Afiliacion/Informaciongeneral/index.htm).

<sup>284</sup> Article 3(1) LOEX refers to all foreigners who are legally in Spain (whether in a short-stay, temporary residence or long-term residence situation) and, thus, includes both investors as well as their family members.

<sup>285</sup> Article 15 LOEX. The countries with which Spain has a double-taxation agreement are listed on the Ministry of Finance website, available at [http://www.minhafp.gob.es/es-ES/Normativa%20y%20doctrina/Normativa/CDI/Paginas/CDI\\_Alfa.aspx](http://www.minhafp.gob.es/es-ES/Normativa%20y%20doctrina/Normativa/CDI/Paginas/CDI_Alfa.aspx).

#### IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

The rules introduced by Law 14/2013 do not modify the rules on accession to citizenship.<sup>286</sup> Therefore, there is **no specific programme or route for foreign investors to obtain Spanish citizenship nor are the requirements for obtaining citizenship waived or in any way facilitated for foreign investors holding an investors' residence permit** (whether a visa or an authorisation). The general rules on Spanish citizenship set out in the **Civil Code** (First Book, Title I) apply.<sup>287</sup>

In particular, since foreign investors can renew their residence authorisation for successive periods of five years,<sup>288</sup> they could apply for Spanish citizenship **when they have resided in Spain for at least ten years immediately before the submission of the request on a legal and continuous basis.**<sup>289</sup> This ten-year period is reduced to:<sup>290</sup>

- **two years:** for citizens of Ibero-American countries, Andorra, the Philippines, Equatorial Guinea, Portugal or Sephardi Jews
- **one year** when at the time of the request, the applicant has been married for at least one year to a Spanish citizen and is not legally or de facto separated or if the applicant is the widow/er of a Spanish citizen and at the time of the death of the spouse were not legally or de facto separated.

In these cases, the applicant must fulfil the following **requirements:**<sup>291</sup>

- justify good civic conduct and sufficient degree of integration in Spanish society;
- if the person is above 14 years of age and able to give testimony, the applicant needs to make an **oath of allegiance** (to swear or promise **fidelity to the King and obedience to the Constitution and laws**);
- declare that they **renounce to their previous citizenship**, except for the persons coming from Ibero-American countries, Andorra, the Philippines, Equatorial Guinea, Portugal or who are Sephardi Jews;
- register their Spanish nationality in the Civil Register.

There are no specific statistics on the number of foreign investors who obtained Spanish citizenship by residence or by naturalisation card. Such statistics are not disaggregated and, thus, do not indicate the specific profile of the person who obtained citizenship. Statistics are only available in absolute numbers for third-country nationals who obtained Spanish citizenship by residence or by naturalisation card.<sup>292</sup>

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<sup>286</sup> MESS, 'Report on the implementation on the Section on International Mobility of Law 14/2013 of 27 September on the support to entrepreneurs and their internationalisation' (*Informe sobre la aplicación de la Sección de Movilidad Internacional de la Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización*), April 2015, available at [http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14\\_2013/documentacion/Informe\\_anual\\_de\\_la\\_Seccion\\_de\\_Movilidad\\_de\\_la\\_ley\\_14\\_2013.pdf](http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14_2013/documentacion/Informe_anual_de_la_Seccion_de_Movilidad_de_la_ley_14_2013.pdf).

<sup>287</sup> Royal Decree of 24 July of 1889 publishing the Civil Code (), Official Gazette 206/1889, BOE-A-1889-4763, available at <https://boe.es/buscar/act.php?id=BOE-A-1889-4763> (last amended in June 2017) (Civil Code).

<sup>288</sup> Article 67(2) Law 14/2013.

<sup>289</sup> Articles 21(2)(3)(4) and 22 Civil Code and Royal Decree 1004/2015, of 6 November, adopting the Regulation establishing the procedure to obtain the Spanish nationality by residence (*Real Decreto 1004/2015, de 6 de noviembre, por el que se aprueba el Reglamento por el que se regula el procedimiento para la adquisición de la nacionalidad española por residencia*), Official Gazette 267/2015, BOE-A-2015-12047, available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2015-12047>.

<sup>290</sup> Articles 21(2)(3)(4) and 22 Civil Code and Royal Decree 1004/2015, of 6 November, adopting the Regulation establishing the procedure to obtain the Spanish nationality by residence (*Real Decreto 1004/2015, de 6 de noviembre, por el que se aprueba el Reglamento por el que se regula el procedimiento para la adquisición de la nacionalidad española por residencia*), Official Gazette 267/2015, BOE-A-2015-12047, available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2015-12047>.

<sup>291</sup> Article 22(4) and 23 Civil Code.

<sup>292</sup> National Statistics Institute (*Instituto Nacional de Estadística*, INE) website, available at <http://www.ine.es/jaxi/tabla.do?type=pcaxis&path=/t20/p279/serie/10/&file=01002.px> and <http://www.ine.es/dyngs/IOE/es/operacion.htm?numinv=63051>.

## V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

Law 14/2013 requires the Ministry of Employment and Social Security, on request of the Ministries of Foreign Affairs, Interior Affairs and Economy to prepare an **annual report on the implementation** of the permits granted to the groups of individuals covered by Article 61 of Law 14/2013 (investors, entrepreneurs, highly qualified professionals, researchers and intra-corporate transferees) (**'international mobility permits'**).<sup>293</sup> The report must be submitted to the Council of Ministers. To date, only the first of such reports (the 2015 Report) is publicly available.<sup>294</sup>

According to the 2015 Report, the introduction of international mobility permits has supported the establishment of a **favourable framework for the internationalisation of the Spanish market** since it attracts investment and talent and is **boosting opportunities in the negotiation of international economic agreements**. Regarding the investors' permits, specifically, the Report declares that Spain is now open to investment and has removed important obstacles to immigration. The 2015 Report also states that the Spain's Secretary for Trade considered that in the next five years – since 2015 – the investment generated by international mobility permits would reach EUR 694 million and create 12,685 jobs. This positive impact of the regime established by Law 14/2013 is also commented on by the Government in its mid-term evaluation of the Strategic Plan for the Internationalisation of the Spanish Economy.<sup>295</sup>

Nevertheless, part of the **academia** considers that the Spanish investors' residence scheme has not been successful, especially when compared with similar schemes such as that of Portugal. A study published in 2016<sup>296</sup> reports that the **number of foreign investors** granted a **permit** – 531 –, the **amount of investment** – EUR 446.8 million –, and the **number of real estate assets sold** – 490 properties out of 830,000 available – is **low**. According to this study, in 2015, 5,20% of the sale of real estate assets valued at EUR 500,000 or more were carried out by foreign investors and 44,89% of these were from outside the EU. Data is slightly higher than the ones of 2013 and 2014, which would mean that the effect of the scheme is not very significant. The study draws a comparison with Portugal, where, for the same period (2012-2015), 1,649 investors' visas were granted, generating more than EUR 1,100 million. Another issue is the **lack of promotion (awareness-raising)** by the Spanish government of the existence of the investors' residence schemes. Furthermore, the study also attributes the questionable success of the Spanish investors' residence schemes to the **long processing times** of the investors' residence permits. In practice, the procedure lasts 40 days instead of the ten days set by law. This 2016 study also mentions the **discretion** of the competent authorities in implementing the schemes and the use of different criteria depending on the embassies and consulates (e.g. non-admission of electronic means) as factors that could impact the effectiveness of the schemes.

According to more **recent newspaper articles**,<sup>297</sup> however, the **success rate of the Spanish investors'**

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<sup>293</sup> Eleventh Final Provision Law 14/2013. These permits are regulated in Section II, Title V Law 14/2013 (Articles 61-76).

<sup>294</sup> 2015 MESS Report.

<sup>295</sup> General Directorate of International Trade and Investment, Sub-general Directorate on Analysis and Internationalisation Strategy, 'Evaluation report half-way through the implementation of the Strategic Plan on the Internationalisation of the Spanish Economy 2014-2015' (*Informe de evaluación a medio camino del plan estratégico de internacionalización de la economía española* 2014-2015), April 2015, available at <http://www.comercio.gob.es/es-ES/noticias/Documents/Informe%20de%20Evaluaci%C3%B3n%20del%20PEEL.pdf> p. 27

<sup>296</sup> Ortega Giménez, A., and Navarro Plá, E.C., 2016, 'Golden visas in Spain: success or failure?' (*La Golden Visa en España, ¿éxito o fracaso?*), ACMS publications, available at [https://acmspublicaciones.revistabarataria.es/wp-content/uploads/2017/05/33.Ortega.Valdep.2016.452\\_461.pdf](https://acmspublicaciones.revistabarataria.es/wp-content/uploads/2017/05/33.Ortega.Valdep.2016.452_461.pdf).

<sup>297</sup> El País, 'Russian and Chinese citizens monopolise the visas granted for real estate investments' (*Rusos y chinos acaparan los visados por compra de casas*), May 2018, available at [https://cincodias.elpais.com/cincodias/2018/05/04/midiner/1525450395\\_341550.html](https://cincodias.elpais.com/cincodias/2018/05/04/midiner/1525450395_341550.html); El Diario, 'Golden visas shoot up: 41,000 foreigners obtain permits in exchange of buying luxury houses or by investing millions' (*Los "visados dorados" se disparan: 41.000 extranjeros obtienen papeles por comprar casas de lujo o inversiones millonarias*), March 2018, available



**schemes** seems to be **on the rise**. According to these articles, which mention a report by the Ministry of Economy,<sup>298</sup> the number of international mobility permits increased from 14,804 in 2015 to 41,094 **by the end of 2017** (19,368 corresponding to the main holder of the permit and the rest to their family members). From these, **3,350** (17.30%) of the permits correspond to **investors' residence schemes**. Supposedly, such schemes generated a **total income of EUR 3,026 million** in 2017, 77.16% more than in 2016. The vast majority of the investments were carried out in the **purchase of real estate**: EUR 2,332 million (77.1% of the total income).<sup>299</sup> Most foreign investors making this type of investment (real estate property purchases) came from **China**: they represented 37.3% of the purchases carried out and 32.6% of the total capital invested in this type of transaction. **Russians** are the second most numerous group representing 26.6% of the transactions carried out and 30.1% of the capital invested. Among the Spanish cities where real estate purchases were made by foreign investors, **Barcelona** was at the top of the list (with 1,384 purchases), followed by Madrid (490) and Málaga (473).<sup>300</sup>

According to one newspaper article,<sup>301</sup> 53 **Russian** citizens invested in **financial assets** (public debt, shares or bank deposit), representing an average of EUR 1.1 million each (**EUR 58.3 million** in total), followed by 10 **Chinese** citizens (representing a total of **EUR 10 million**) and nine **Ukrainian** citizens (**EUR 12 million**) making this type of investment.

For **investments in business projects of general interest**, six projects were launched in 2017 by **Chinese** citizens representing a total investment of **EUR 226 million** and the creation of 740 jobs. There were also nine projects invested in by **Russians** (representing a **EUR 29 million** investment and the creation of 201 jobs) and five by **Egyptians** (representing a **EUR 8 million** investment and the creation of 175 jobs).

In addition, if the data published in the mentioned newspaper articles is reliable, a total of **EUR 436,840** was collected by the Spanish Public Treasury in non-refundable fees for the processing and issuance of the investors' residence permits in 2017. The fee for the issuance of the investors' residence visa is EUR 60 and for the investors' residence authorisation EUR 70.40 which adds up to EUR 130.40. Multiplying this by the alleged 3,350 residence permits granted to investors in 2017 (newspaper articles cited above) the total amount fees paid to the Spanish Public Treasury would be of EUR 436,840 in 2017. This excludes fees eventually applicable for renewal of the permits.

In light of the above, it would seem that although the Spanish investors' residence schemes had a slow beginning, they have substantially gained momentum in the last three years, meeting the objectives they were created for: boosting the Spanish economy, increasing its competitiveness at international level and creating jobs.

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at [https://www.eldiario.es/economia/visados-extranjeros-invierten-millones-disparan\\_0\\_753125467.html](https://www.eldiario.es/economia/visados-extranjeros-invierten-millones-disparan_0_753125467.html); El País, 'Investment visas catches 2,157 million and attract Chinese and Russian millionaires' (*Los visados por inversiones captan 2.157 millones y atraen a millonarios chinos y rusos*), April 2017, available at [https://elpais.com/economia/2017/04/23/actualidad/1492964484\\_077992.html](https://elpais.com/economia/2017/04/23/actualidad/1492964484_077992.html);

<sup>298</sup> This report could not be found through desk research nor could the stakeholder consulted (representative of the General Secretariat on Migration, competent authority, 21 June 2018) confirm the existence of this report.

<sup>299</sup> El País, 'Russian and Chinese citizens monopolise the visas granted for real estate investments' (*Rusos y chinos acaparan los visados por compra de casas*), May 2018.

<sup>300</sup> El País, 'Russian and Chinese citizens monopolise the visas granted for real estate investments' (*Rusos y chinos acaparan los visados por compra de casas*), May 2018.

<sup>301</sup> El Diario, 'Golden visas shoot up: 41,000 foreigners obtain permits in exchange of buying luxury houses or by investing millions' (*Los "visados dorados" se disparan: 41.000 extranjeros obtienen papeles por comprar casas de lujo o inversiones millonarias*), March 2018.