

VISAS FOR ENTREPRENEURS (INTRA-COMPANY TRANSFER) IN SPAIN

DOCUMENTATION TO BE PRESENTED

General considerations

Any company or group of companies established in Spain or another country may apply, within the framework of an employment or professional relationship, or for reasons of prior professional training, under Law 14/2013 of September 27, on support for entrepreneurs and their internationalization, for a residence visa for intra-company transfers to be incorporated in Spain. This visa is for foreign professionals over 18 years of age who are not nationals of an EU Member State or a Schengen State.

Residence permits for intra-company transfers under this regulation come in two forms:

- a) National residence permit. This permit is available for foreigners who will be subject to an intra-company transfer exclusively within a company in Spanish territory.
- b) EU ICT residence permit. This permit is available for foreigners who will be subject to an intra-company transfer that involves mobility within the European Union. This type of authorization will only be applicable in the case of temporary transfers to work as a manager, as a specialist, or for training, in accordance with the definitions of these categories set forth in Article 73.3.a) of Law 14/2013 of September 27.

This type of visa ALWAYS requires obtaining a prior residence permit, which must be processed in Spain by the contracting entity through the Large Companies and Strategic Groups Unit of the Ministry of Social Security and Migration. To process this permit, the company requesting the intra-company transfer must prove, among other things, the existence of a real business activity and, where applicable, that of the business group; the applicant's higher education qualification or equivalent; or, where applicable, a minimum of three years of professional experience; the existence of a previous and continuous employment or professional relationship of three months with one or more of the group's companies; and documentation of the same that proves the transfer. If the authorization is granted, the interested party must submit the visa application to the corresponding consular office.

The possibility of processing this type of visa (joint, simultaneous, or successively) extends to:

- the spouse**, provided they are not legally or de facto separated from the sponsoring family member and the marriage was not entered into in fraudulent conduct; under no circumstances may more than one spouse be reunited (unless they can prove the dissolution of their first marriage following a judicial procedure with the guarantees established by Spanish law), even if the personal law of the sponsoring foreigner allows this type of marriage. Alternatively, it may be granted to the **person with whom they maintain a relationship of affection similar to a conjugal one**, provided that said relationship is registered in a public registry established for this purpose and has not been terminated, or was established prior to the sponsor's residence in Spain and its validity is proven. Marriage and common-law partnerships will in all cases be considered incompatible with each other.
- Children** and those of their spouse or common-law partner who are **under 18 years of age or over that age, provided they are incapacitated**.
- Those represented** by the foreign sponsoring family who are **under 18 years of age or over that age, provided they are incapacitated**, when a legal act is carried out that gives rise to powers of representation (for example, the establishment of a guardianship or a kafala), provided that this legal act is not contrary to the principles of the Spanish legal system.
- First-degree ascendants** and those of their spouse or common-law partner who are over 65 years of age (or under that age, where there are humanitarian reasons), provided they are dependent on them and there are reasons justifying the need to authorize their residence in Spain.

If the intra-company transfer under the aforementioned Law is expected to last no longer than 90 days, the interested party (and, where applicable, any accompanying family members) must in all cases apply for a Schengen visa and not a relocation visa. Obtaining this visa is mandatory for all applicants, regardless of their nationality, including those whose nationality requires only a travel authorization registered in the European Travel Information and Authorization System (ETIAS), when it is in force (Annex II, Regulation EU 2018/1806 of 14 November). For this visa application, the general rules for Schengen visas will apply. In all cases, a copy of the residence permit issued by the Large Companies and Strategic Groups Unit of the Ministry of Social

Security and Migration must be included with the application. It should also be noted that border authorities may require documentation justifying the purpose of the trip upon entry to Spain.

Those who are within the voluntary commitment period not to return to Spain may not submit such a visa application.

Applications for visas for intra-company transfers may be submitted either in person or through a duly accredited representative (except in the case of minors, in whom one of their parents or guardians must do so). Applications may not be submitted electronically¹ under any circumstances.

The application may be submitted at any Spanish consular office abroad. Consequently, nationals of the country will not need to prove actual and effective residence in the corresponding consular district, and third-country nationals will only be required to be legally resident with authorization to return.

No fingerprinting is required.

The consular office may establish an appointment system for receiving applications for this type of visa. Granting an appointment for submitting a visa application does not automatically imply authorization.

Visa applications will be rejected for processing under the Fourth Additional Provision of Organic Law 4/2000, of January 11.

In the case of incomplete files or if any document submitted does not meet the legally required requirements, the applicant will be required to correct them.

The issuance of a visa for intra-company transfer by the Consular Office requires prior authorization from the corresponding Immigration Office in Spain, a process that must be completed within 20 days of receipt.

If the visa is authorized, it automatically entitles its holder to legally reside in Spain, valid for the entire national territory, subject to the duration of the transfer. This will be a maximum of 3 years for managers or specialists, and a maximum of 1 year for trainees. In both cases, the visa holder does not need to apply for the corresponding Foreigner's Identity Card (TIE). However, the visa holder must always apply for a Foreigner's Identity Number (NIE) if they do not already have one. This process can be done in Spain or at this Consular Office, at the applicant's choice.

If the visa is authorized for an EU ICT business transfer, the applicant, and any family members, will be entitled to mobility within the EU, under Directive (EU) 2014/66 of May 15.

The visa must be collected within one month of its authorization and may be collected either in person or through a representative (those issued to minors must be collected by their parents or guardians); after this period has elapsed without collecting it, the Consular Office will issue a resolution to dismiss it due to waiver. It cannot be collected at a Consular Office other than the one that processed the application.

The visa holder has a maximum of three months to enter Spain and must, in all cases, travel to Spain and present to the border authorities the same travel document used to process their visa, which includes the visa.

Possession of a valid visa of this type does not guarantee the holder automatic entry into Spain. The holder must prove to the border authorities that they meet the requirements for issuing it. Nor does it, on its own, allow the holder to leave their country of origin, nationality, or residence, which may impose regulations in this regard.

Once entry into Spain has been authorized by the border authorities, the visa holder must ensure that their passport is stamped by them. If entering Spain from a Schengen State and therefore without crossing external borders, they must, within a maximum period of three business days, go to a Police Station or Immigration Office to sign an entry declaration.

¹ The application and documentation must be submitted in person at this Consulate General during business hours, Monday to Friday, from 9 a.m. to 1 p.m. Appointments are required at cog.melbourne.visappt@maec.es

If the visa is denied by this consular office, it will issue a decision rejecting it, which will always be communicated to the interested party in writing, including information on the legal basis for the denial, the available appeals, and the bodies to which they must be submitted.

Documentation to be submitted

All applicants must present the following:

1. Original passport or travel document.
2. National visa application form (1 copy).
3. 1 photograph.
4. A clean criminal record certificate for offenses under Spanish law, issued by the country or countries in which the applicant has resided in the last 5 years (unless the applicant is under 21 years of age, in which case the certificate must cover the period from the applicant's 16th birthday until the date of issue).
5. A copy of the residence permit document, issued by the Large Companies and Strategic Groups Unit of the Ministry of Social Security and Migration.
6. The amount of the corresponding consular fee; if the fee is claimed to be free of charge, supporting documents.

In the case of family members, documents 1, 2, 3, 4 (if applicable), and 6, plus:

7. Copy of the family member's residence permit, issued by the Large Companies and Strategic Groups Unit of the Ministry of Social Security and Migration.

General rules on the documentation to be submitted

The procedure for applying for a NIE is outlined in a separate information note available at this Consulate General and on its website. You must use the corresponding forms, also available at this Consulate General, and pay the corresponding consular fee.

The passport or travel document must be recognized by Spain, must be valid for at least 3 months after the visa validity period (i.e., 6 months for stays of less than 3 months and 15 months for all other periods), have at least 2 blank pages, and must allow return to the country of issue. In addition to the original, a photocopy of ALL pages, including those left blank, must be submitted.

The visa application form must be completed in all sections and signed by the applicant (or by their representative in the case of minors). Applications with unsigned forms will be deemed inadmissible. The applicant's home address or postal address (which must always be within the consular district), telephone number, and email address must be clearly stated for communication purposes. This form is free of charge.

The photograph must comply with the technical requirements of ICAO Document 9303 (close-up of the head and shoulders, taken from the front, with eyes open, against a plain, light background, without glare, dark glasses, hats, or clothing that obscures the face, which must be visible from the hairline to the chin, taken within the six months prior to the visa application).

Requirements 10 and 11.a, or, where applicable, 11.b, may be submitted in a single document.

The criminal record certificate, civil registry certificates, and other official Spanish and foreign documentation must not be dated more than three (3) months ago, and in exceptional cases, six (6) months. This consular office reserves the right to request official foreign documentation that has been apostilled² or, where appropriate, legalized (except for a current bilateral or multilateral agreement³), as well as a translation into Spanish (documentation in English or French⁵ is accepted). The applicant is responsible for providing the apostilled/legalized documents and their translation into Spanish, and the applicant must bear the cost of these procedures.

Criminal record certificates must be submitted in their simplest form (without fingerprints).

The visa fee is payable in advance and is not refunded to the applicant in the event of visa denial⁵.

All documents must be presented in the **original and a copy**. Documents submitted will not be returned (except upon express and reasoned request).

THIS CONSULAR OFFICE RESERVES THE RIGHT TO REQUEST ADDITIONAL DOCUMENTATION OR CARRY OUT NECESSARY CHECKS IF IT DEEMS IT NECESSARY TO RESOLVE THE CASE. DOCUMENTATION PROVIDED THAT HAS NOT BEEN EXPRESSLY REQUESTED WILL NOT BE TAKEN INTO ACCOUNT WHEN RESOLVING THE CASE.

COMPLIANCE WITH THESE INSTRUCTIONS IS STRONGLY ENCOURAGED, AND INTERESTED PARTIES ARE KINDLY REQUESTED TO SUBMIT ALL REQUIRED DOCUMENTATION AT THE SAME TIME TO AVOID DELAYS IN VISA PROCESSING.

THIS CONSULAR OFFICE DOES NOT OFFER PHOTOCOPYING SERVICES TO THE PUBLIC.

² The updated list of member states of the Hague Convention of 5.10.1961, which abolishes the requirement for legalization of foreign public documents (Apostille Convention), can be consulted at the following link: <https://www.hcch.net/es/instruments/conventions/status-table/?cid=41>

³ Consult the list of current Conventions at this Consular Office.

⁴ For documents drawn up in other languages, please consult this Consular Office.

⁵ Please check the current fee for this type of visa at this consular office at the following link: <https://exterioresedicion.maec.es/Consulados/melbourne/es/Comunicacion/Noticias/Paginas/Precios-Recaudaci%C3%B3n-Consular-a-1012024.aspx> Please note that payment will only be accepted by money order or cash