



# GMS Flash Alert

Immigration Edition

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## Spain – COVID-19: New Decree Revises Immigration Processing Policies and Practices

Spain's Royal Decree 463/2020 from 14 March 2020, provides for the suspension of administrative and processing deadlines, and of the limited period of time usually provided in order to respond to application-related queries, requirements, and denials.<sup>1</sup>

### WHY THIS MATTERS

Due to the need for the focus and direction of public services and resources on essential services, which are needed in the current context of Spain's dire health emergency, the Royal Decree looks to balance normal and necessary routines and procedures with the demands of the current health emergency while also considering the rights, interests, and needs of those affected by these administrative shut-downs and deadline suspensions.

### Applications Submitted before 14 March 1 – Processing Still Underway

Prior to the entry into force of Royal Decree 463/2020 of 14 March, there were many applications submitted to the foreign office (*Oficina de Extranjería*) for authorisations to reside, study, and/or work in Spain, which are currently either in process or resolved.

Should a requirement be issued, then the usual timeframe to respond is suspended, meaning that the applicant will not be penalised for not responding. However, should they wish to and be able to respond, then the application will continue to be processed, though still not being subject to the legal timeframes which are currently suspended.

Should the application be resolved, then the foreign national is able to carry out, where appropriate, an employment activity. This will add some clarity to what could be a confusing situation and gives certainty to the applicant and his or her family, especially if the family is present in Spain.

## **Applications Submitted before 14 March – Denial or Archive of the Application**

The deadlines for lodging an appeal against the decision to deny or shelve/archive an application to the foreign office are currently suspended in accordance with the provisions of RD 463/2020 of 14 March.

## **Applications Submitted after 14 March – Processing and Next Steps under Certain Conditions**

All applications submitted after the entry into force of Royal Decree 463/2020 of March 14<sup>th</sup> will continue to be processed, taking into consideration the provisions of the Decree previously highlighted in relation to the suspension of administrative deadlines.

Requests may be submitted through the Mercurio platform. If the application cannot be submitted through this platform, it can be submitted through the common electronic “Public Administration Registry” platform.

This scheme will apply to all new, first-time applications.

## **Applications Submitted under Law 14/2013 of 27 September Prior to 14 March – Issuance of Certificates of Administrative Positive Silence**

Where the legal deadline for a resolution of an application made under this law has passed before March 14<sup>th</sup>, then the applicant is entitled to a “Certificate of Administrative Positive Silence,” favourably resolving his or her application.

In this period, we need to consider the fact that many individuals have been engaged in the undertaking of basic work activities for their livelihood, which is why the express resolution confirming the presumed termination must be issued.

## **Additional Measures**

Documents which expire during the current exceptional situation and are necessary for an application to be made to the foreign office, will be accepted in future applications.

If a third-country national has a visa that is about to expire, but is unable to leave the country due to the health emergency, that expiry will not apply and the individual may continue to remain in the country until the current situation changes.

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### **KPMG NOTE**

These measures should bring some certainty, and in some cases, relief, to individuals in Spain with visas that are about to expire, or who have visa applications submitted prior to the cut-off date. Once the country’s exceptional measures are lifted, there will likely be a back-log of applications whose timely processing, it is anticipated, will experience delays. In such case, the resort to extensions of deadlines may need to be considered.

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## FOOTNOTE:

1 See *Real Decreto 462/2020* published in the *Boletín Oficial del Estado* núm. 67, de 14 de marzo de 2020 Referencia: BOE-A-2020-3692 at: <https://www.boe.es/buscar/pdf/2020/BOE-A-2020-3692-consolidado.pdf> .

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## Please Take Our KPMG Survey on COVID-19 – Implications for Globally Mobile Employees

As the challenges of COVID-19 continue, multinational organisations must evaluate whether to initiate repatriation protocols and temporary or long-term responses for their mobile employees. The COVID-19 situation is evolving at a rapid pace, requiring organisations to quickly adapt to new protocols, behaviors, and potential policy changes, as well as implement initial temporary and long-term employee support. As a result, **KPMG has developed a [spot survey](#) to identify how organisations are initially responding to the pandemic and managing their talent mobility globally during these complex times.** Please click [here](#) to begin the 5-minute survey. The survey may also be taken via mobile device. The closing date is Friday, April 3.

## Contact us

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*\* Please note that KPMG LLP (U.S.) does not offer immigration services or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

**The information contained in this newsletter was submitted by the KPMG International member firm in Spain.**

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