

GMS Flash Alert

Immigration Edition

2023-124 | June 15, 2023



Spain – New Rules for EU Blue Card

Spain has partially transposed the new Blue Card Directive, the Directive (EU) 2021/1883 of the European Parliament and of the Council, of 20 October 2021, regarding the conditions of entry and residence of third-country nationals for highly-qualified employment purposes. This revokes Council Directive 2009/50/EC.¹

WHY THIS MATTERS

Spain will have two types of highly-qualified permit, one national and one European (EU Blue Card) and the processing on the new Blue Card is assigned to a single specialised team: the Large Companies and Strategic Groups Unit (*Unidad de Grandes Empresas y Colectivos Estratégicos*) which is currently in charge of the Highly-Skilled Professional Scheme, yielding synergies. Also, the new Blue Card rules will create a common set of procedural guidelines, as well as introduce greater efficiencies and timeliness.

Background

Instead of including the 2021 Directive in the Immigration Law (*Ley Organica 4/2000*) as had been done with the previous EU Blue Card Directive (2009); now the new Directive has been introduced in Law 14/2013, of September 27².

Approved almost 10 years ago, Law 14/2013 came about in a context of recovery measures introduced to deal with the economic and social crisis. The objective was to create a regulatory environment favourable to competitiveness and the internationalisation of Spanish enterprises and, specifically, the granting of visas and residence permits in order to attract investment and talent to Spain. Law 14/2013 included the investor visa (so-called “Golden Visa”), the entrepreneur visa, the highly-skilled professional visa, and the intra-company visa.

New Blue Card or EU Highly-Skilled Professional

A new article 71 *bis* in Law 14/2013 establishes the complementarity of the national regime for authorisation of entry and residence of highly-qualified professionals with respect to the EU Blue Card regime. Spain will have a national highly-qualified professionals permit and an EU highly-qualified professionals permit (the new Blue Card).

Similarities

Who can apply? In both cases the application can be submitted by the enterprise or by the employee.

Validity: The initial permit will be granted for three years whereas renewal will be for two years. After five years both paths can lead to the long-term permit if requirements are met.

Differences

The **Blue Card** is for those labour activities in which:

- the level of education needed is equivalent to the level 6 of European Qualifications Framework (EQF)³ – (same level of the *Marco Español de Cualificaciones para el Aprendizaje Permanente* (MECU))⁴;
- or five years of labour experience that accredits the individual's knowledge, capacities, and competencies for the job position and the particular economic sector; except in the information and communications technology area, where three years of experience, in the seven years prior to the Blue Card application, will be requested.

National Highly-Skilled professional permit is for those labour activities in which:

- the level of education needed is equivalent to the level 5A of MECU;
- or three years of labour experience that accredits the individual's knowledge, capacities, and competencies for the job position and particular economic sector.

Particularities of new Blue Card

The Blue Card **can be cancelled or not renewed** when:

- the Blue Card holder does not have a valid contract of high qualification:
 1. and has been unemployed for more than three months and has had this type of permit for less than two years.
 2. and has been unemployed for more than six months and has had this type of permit for at least two years.
- When the Blue Card holder moves to another EU country and has obtained the EU Blue Card in that other country.

Pending Instructions

A new twentieth additional provision is included in Law 14/2013 establishing that new instructions will be approved this time without a timeframe (see our previous [GMS Flash Alert 2023-031](#), 9 February 2023).

KPMG INSIGHTS

Over the last three years, requirements and processes for applying for different types of work/residence permits have been reformed in Spain, with new ones created such as the Film Visa (see [GMS Flash Alert 2021-196](#), 13 July 2021) or the Teleworking Visa (see [GMS Flash Alert 2023-017](#), 23 January 2023). Those changes took some time to be implemented and normally there is more clarity once the instructions are published.

If there are any questions about eligibility and the conditions for applying for the residence and work permit, individuals with plans to relocate to Spain and employers with such relocating employees may wish to consult with their global mobility professional and/or immigration counsel, or a member of the Immigration team with KPMG in Spain (see the Contacts section).

FOOTNOTES:

1 See *Ley 11/2023, de 8 de mayo, de trasposición de Directivas de la Unión Europea en materia de accesibilidad de determinados productos y servicios, migración de personas altamente cualificadas, tributaria y digitalización de actuaciones notariales y registrales; y por la que se modifica la Ley 12/2011, de 27 de mayo, sobre responsabilidad civil por daños nucleares o producidos por materiales radiactivos*, at: <https://www.boe.es/eli/es/l/2023/05/08/11/con> .

2 See *Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización* at: <https://www.boe.es/eli/es/l/2013/09/27/14> .

3 See <https://europa.eu/europass/en/europass-tools/european-qualifications-framework> .

4 See <https://www.educacionyfp.gob.es/mc/mecu/mecu.html> .

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Spain:



Miguel Arias
Partner
Tel. + 34 91456 3864
marias@kpmg.es



Javier de Robles
Director
Tel. + 34 91 451 3189
jderobles@kpmg.es



Patricia Contreras
Manager
Tel. + 34 91 456 3400
patriciacontreras@kpmg.es

** Please note the KPMG International member firm in the United States does not provide immigration 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.

© 2023 KPMG Abogados, S.L.P., sociedad española de responsabilidad limitada profesional y firma miembro de la organización global de KPMG de firmas miembro independientes afiliadas a KPMG International Limited, sociedad inglesa limitada por garantía. Todos los derechos reservados.

www.kpmg.com

kpmg.com/socialmedia



© 2023 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to <http://www.kpmg.com>.