



British Embassy  
Madrid

## The Embassy answers your questions

**Q. Should existing green residencia holders still hold back (as requested by Spanish authorities initially) from applying for a TIE to give non-residents priority?**

A. Whilst we are aware that UK nationals are facing problems in obtaining an appointment in some areas (either as a first time applicant or to exchange their green certificate for the TIE), in general the system seems to be working well across the country. All UK nationals who are legally resident in Spain before 31 December 2020 have the right to request a TIE which states they are a beneficiary of the Withdrawal Agreement. We are not recommending that people hold back if they wish to start the process now to exchange their green certificate (particularly as the initial appointment that first time applicants may request is with the Immigration Office, whilst those exchanging their certificate will be requesting an appointment with the national police). However, it is down to the individual as to whether they decide to exchange – it is not obligatory to do so.

**Q. What about those with an old address on their existing residencia documents ?**

A. All foreign nationals resident in Spain do have an obligation to ensure their documentation is up to date. If a person has changed address, they should take steps to update their documentation. Someone in this position would require a recently-issued padrón certificate or volante when attending their appointment with the national police to prove their new address.

**Q. Will there be a six-month grace period next year for residencia applications?**

A. As Spain is implementing a declaratory residence system, there is no set 'grace period' for residence registration applications in the same way that there is in other member states (e.g. France). The article in the Withdrawal Agreement that refers to a residence deadline of no less than 6 months after the end of the Transition Period (Article 18.1.b) – i.e. to June 2021 - applies only to member states implementing a constitutive system. Instead, in Spain, the important thing is that a person can prove they were legally living here by 31 December. Their rights then come directly from the Withdrawal Agreement, not from completing the administrative process to obtain a residence document. That said, Spain is within their right to ask UK nationals to register in a timely way. As was the case before the UK left the EU, Spain has said that UK nationals (or joining family members) should register within three months of arrival. Our advice continues to be that UK nationals who are living in Spain should take steps to register as soon as possible. If a person is unable to register within the three-month period, the Spanish authorities have said in their Q&A document that they will look at each individual's case and the reason for late registration. But whilst the Spanish could decide to levy an administrative sanction against someone who doesn't register in a timely way (e.g. a fine), if the UK national can prove they were legally in Spain before 31 December 2020, they would not lose any rights and would still be entitled to receive the Withdrawal Agreement TIE.

**Q. Does the Withdrawal Agreement have any provisions for future spouses?**

A. The Withdrawal Agreement does not have a provision for future spouses. If a UK national begins a relationship after the end of the transition period with a non-EU national, that non-EU national cannot join the UK national in Spain under the Withdrawal Agreement. However, it is possible that UK nationals living in Spain could hold more than one immigration status – the European Commission has confirmed that it is possible for a citizen to hold multiple statuses. These statuses are complementary to one another. Therefore, if a UK national meets the criteria to obtain an alternative immigration status in Spain, such as under the Long Term Residence Directive, the European Commission’s clarification on multiple statuses confirms their right to do so without losing their other ‘status’ as a beneficiary of the Withdrawal Agreement. Alternative immigration statuses in Spain may or may not afford the beneficiary with family reunification rights – this is something on which a UK national should seek specialist advice and consult the Spanish authorities.

**Q. Does it matter if my green residence document does not say ‘permanente’?**

A. To benefit from the rights protected by the Withdrawal Agreement, you need to be legally resident in Spain by 31 December 2020. It does not matter whether your residence certificate/document currently says ‘permanente’ on it or not.

**Q. Do I need to apply for the TIE?**

The Spanish government have confirmed that the green residence certificates will remain valid in proving your residence and rights under the Withdrawal Agreement even after the end of the transition period. You are not obliged to exchange your green certificate for a TIE, but you may do so if you wish. The Spanish government has emphasised there are advantages to obtaining a TIE – it is more durable and may facilitate administrative processes and border crossings. A UK national is entitled to a ‘permanent’ residence document once they have been continuously legally living in Spain for 5 years or more. Holding a permanent residence document confirms your right to live in Spain, without having to demonstrate you meet certain conditions (i.e. income or health requirements). Obtaining a permanent residence document may be beneficial for some UK nationals in Spain – for example, those who wish to access healthcare based on long-term residency.

**Q. What happens if I cannot find my green certificate?**

A. If a person has already registered but cannot find their registration certificate, our understanding is that they can apply for a TIE directly with the national police. Someone in this position should take along as much supporting documentation as possible. If a person is struggling with the registration process, three organisations are supporting UK nationals who need additional support as part of the UK National Support Fund. Their details can be found on [www.gov.uk/livinginspain](http://www.gov.uk/livinginspain).

**Q. What happens if I do not have time to complete both my residence registration and exchange my driving licence before the end of the transition period?**

A. The most important action a UK national should take if they are living in Spain is to register as a resident if they have not already done so. There is further information on how to do this at [www.gov.uk/livinginspain](http://www.gov.uk/livinginspain).

A person cannot currently exchange their UK driving licence for a Spanish licence unless they are registered as a resident in Spain. The DGT have informed the British Embassy that they intend to introduce measures to help streamline the driving licence exchange process for those looking to exchange their licence before the end of the year, as they are aware that many people are struggling to get an appointment. They will make a form available to UK licence holders, which will ask for the

details the DGT need to verify the licence. This form must be submitted to the DGT by 25 December to enable them to verify the licence before the end of the year. The licence holder will then need to request an appointment with the DGT to finalise the exchange process. However, if the form is submitted within the deadline and the licence verified by the DGT by the end of the year, it will not matter if the appointment with DGT to complete the process is after 1 January 2021 – the licence will still be exchanged according to the current rules. So, whilst further details are needed about the system and when it will come into effect, this should be welcome news to people who may be struggling to get through the exchange process. In addition, the UK continues to negotiate the rules on the recognition and exchange of UK driving licences from 1 January 2021 onwards with member states.

**Q. What is the situation for UK nationals who are married to an EU citizen?**

A. The European Commission has confirmed that a person can hold multiple ‘statuses’. Therefore, if you meet the criteria to obtain an alternative immigration status in Spain, such as registering as a family member of an EU citizen, the European Commission’s clarification on multiple statuses confirms your right to do so without losing your other ‘status’ as a beneficiary of the Withdrawal Agreement. How you will do this is a matter for the Spanish authorities. You may also wish to seek specialist advice on this matter.

**Q. What are the rules on family reunification under the Withdrawal Agreement?**

A. UK nationals who are in scope of the Withdrawal Agreement (i.e. are legally living in Spain by 31 December 2020) can be joined by close family members at any point in the future, on the basis of EU rules, as long as the relationship existed by the end of the transition period. Close family members are defined as spouses, registered partners, unmarried partners, children under the age of 21, grandchildren and dependent children, parents and grandparents (this definition comes from the Free Movement Directive). The Withdrawal Agreement also protects durable partners, both opposite-sex and same-sex, where the relationship existed before the end of the transition period. It is for the Spanish authorities to set out the documentation/evidence requirements they need to assess the durability of the relationship. The Withdrawal Agreement does not cover future spouses or partners. Therefore, if a UK national living in Spain begins a relationship with and marries a non-EU national after the end of the transition period, that future spouse would not be able to join the UK national living in Spain under the Withdrawal Agreement. Rather the non-EU spouse would need to meet Spain’s domestic immigration rules.

**Q. Will being absent from Spain for a period of time affect my residence status?**

A. If a UK national has legally lived in Spain for less than 5 continuous years, temporary absences of up to 6 months each year do not affect the right of residence. Continuity of residence is also not affected by one absence of up to 12 consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting abroad. If a UK national has obtained the right of permanent residence (for example, they have continuously resided in Spain for five years or more), absences of up to five continuous years are accepted. If you are aware you will be absent or have already been absent for a prolonged period of time, you should seek advice from the Spanish authorities as to whether this will or has affected your residence status.