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PRELIMINARY BILL ON SUPPORT TO ENTREPRENEURS AND THEIR INTERNATIONAL BUSINESS APPROVED BY SPANISH GOVERNMENT LAST FRIDAY, MAY 24 AIMED AT ENCOURAGING FOREIGN INVESTORS WHO ARE NOT EU CITIZENS TO COME TO AND STAY IN SPAIN AS A RESULT OF ACQUIRING REAL ESTATE

In accordance with the preliminary bill, nonresident foreigners who wish to enter Spain to make a “significant economic investment” of capital may apply for a residence visa for investors.

Among the cases to be considered a “significant economic investment” is the acquisition of real estate in Spain with an investment having a value of €500,000 or higher, per applicant.

For the visa to be granted, the investor must evidence (besides the general requirements for entry and residence permit to foreigners who are not going to engage in remunerated activities, such as no criminal record, health insurance, or sufficient funds for themselves and their family members) the ownership of the properties in question. The properties shall be free and clear of liens and other encumbrances, but the part of the investment that exceeds €500,000 may be subject to liens or encumbrances.

It would be understood that the foreigner made a significant capital investment when the investment is made by a corporation, with domicile in a territory that is not considered a tax haven under Spanish law, and the foreigner holds directly or indirectly the majority of its voting rights and has the authority to appoint the majority of the members of its managing body.

The residence visa will allow investors to reside in Spain for a period of at least 1 year. Visa applications will be decided on and notified within 10 business days and it will not be necessary to apply for a foreigner’s identity card, so it does appear in principle that the effect of the measures contained in the preliminary bill will be to speed up the current formalities for obtaining a residence permit.

In addition, any investor who “evidence a wish” to reside in Spain beyond the expiration date of their visa may apply to be granted a residence authorization lasting for 2 years, renewable at the request of the investor. It would appear that this wish is presumed to be evidenced if upon applying for the authorization the investor (i) has a residence visa for investors in force (or one that expired less than 90 days earlier), (ii) continues to own properties in the minimum amount required, (iii) has traveled to Spain at least once in the period authorized for residence and (iv) has complied with tax and Social Security obligations, where appropriate.

The residence authorization will be granted within 20 days after receipt of the application, and if no decision is made on the application within this period, it will be deemed granted by administrative silence.

Notwithstanding the need to evidence the continuity of residence in Spain to acquire a long-stay residence or Spanish nationality, residence authorization may be renewed even in the case of absences of longer than 6 months in a year.

Foreigners shall maintain, while their visas or authorizations are in effect, the conditions due to which they were granted. The responsible bodies of the Government may make the verifications they may deem appropriate of such compliance.

Please find attached the relevant articles of the preliminary bill.

**PARTIAL DRAFT OF THE PRELIMINARY BILL UNDER DISCUSSION
GOVERNING GOLDEN VISAS (*ANTEPROYECTO DE LEY DE APOYO A LOS
EMPRENEDORES Y SU INTERNACIONALIZACIÓN*)**

TITLE V: INTERNATIONALIZATION OF THE ECONOMY

SECTION 2. INTERNATIONAL MOBILITY

CHAPTER I: FACILITATING ENTRY AND STAYS

Article 57. Entry and stay in Spain for reasons of economic interest

1. The entry and stay in Spanish territory of foreigners who propose to enter or reside, or who already reside, in Spain shall be facilitated for reasons of economic interest as provided for in this section, in those events in which they evidence that they are:

- a) Investors
- b) Entrepreneurs
- c) Highly qualified professionals
- d) Researchers
- e) Workers moving between businesses within the same enterprise or group of enterprises.

2. This section shall not apply to citizens of the European Union or to foreigners to whom European law applies for being beneficiaries of the rights of free movement and residence.

Article 58. General requirements for entry and residence

1. In addition to evidencing the specific requirements set out for each visa or authorization, foreigners must provide evidence of compliance with the following general requirements:

- a) Not be in Spain irregularly.
- b) Be over 18.
- c) Not have a criminal record in Spain and in the countries where they have resided in the past five years, for crimes defined in Spanish law.
- d) Not appear as a person that may be refused entry to the territory of countries with which Spain has signed a convention in that respect.
- e) Have public insurance or private health insurance arranged with an insurer authorized to operate in Spain.

f) Have sufficient financial means of support for themselves and for their family members during their stay in Spain.

g) Pay the fee for handling the application for the authorization and/or visa.

2. Their spouse and offspring under 18, or offspring of legal age who are not objectively capable of providing for their own needs due to their state of health, who may join or accompany the foreigners listed in article 57, point 1, may apply, jointly and simultaneously or subsequently, for the authorization and, if applicable, the visa. Evidence of compliance with the foregoing requirements must be provided.

3. The provisions in this article shall be construed without prejudice to the performance by the obliged parties of the obligations established in Law 10/2012, of April 29, 2010, on preventing money laundering and the financing of terrorism and the relevant tax and social security obligations.

4. The bodies responsible for granting the relevant visas or authorizations shall make the necessary consultations to the Directorate General for the Policy to verify compliance with the entry and residence requirements, particularly as regards security matters.

CHAPTER II: INVESTORS

Article 59. Residence visa for investors

1. Non-resident foreigners who propose to enter Spanish territory to make a significant economic capital investment may request the stay or, as appropriate, residence visa for investors.

2. A significant economic capital investment shall meet that included in any of the following events:

a) Initial investment for a value of 2 million euros or higher in Spanish public debt, or for a value of one million euros or higher in shares or stakes in Spanish companies, or bank deposits in Spanish financial institutions.

b) The acquisition of real estate in Spain with an investment having a value of 500,000 euros or higher, per applicant.

c) A business project to be implemented in Spain and which is considered to be and accredited as being of general interest, for which purpose the meeting of at least one of the following conditions will be valued:

1.- Creation of posts of work.

2.- Making of an investment with relevant socio-economic impact on the geographical area in which the activity is to be performed.

3.- Relevant contribution to scientific and/or technological innovation.

3. It will also be considered that the foreigner applicant for the visa made a significant capital investment where the investment is made by a corporation, with domicile in a territory that is not considered a tax haven under Spanish law, and the foreigner holds, directly or indirectly, the majority of its voting rights and has authority to appoint or remove the majority of the members of its managing body.

Article 60. Procedure to evidence the investment

For the residence visa for investors to be granted, the following requirements shall be met:

a) In the event contemplated in article 59, section 2, paragraph a), the applicant shall evidence that the investment was made in the minimum amount required, within a period not exceeding 60 days before the application was filed, as set out below:

1. In the event of an investment in unlisted shares or shareholdings, the copy of the declaration of investment made at the Registry of Foreign Investments of the Ministry for Economy and Competitiveness shall be submitted.

2. In the event of an investment in listed shares, a financial agent or broker certificate, duly registered with the Spanish National Securities Market Commission or with the Bank of Spain, recording that the applicant has made the investment for the purposes of this provision.

3. In the event of an investment in public debt, a certificate of the financial institution or Bank of Spain shall be submitted recording that the applicant is the sole holder of the investment for a period of 5 years or longer.

4. In the event of an investment in a bank deposit, a certificate of the financial institution shall be submitted, recording that the applicant is the sole holder of the bank deposit.

b) In the event contemplated in article 59, section 2, paragraph b), the applicant shall evidence that he is the owner of the real properties submitting one or more certificates of ownership issued by the Property Registry responsible for the real property or properties in question dated within ninety days prior to the submission of the application.

If the acquisition of the property is in the process of entry at the Property Registry, it will suffice to submit a certified copy of the public deed in which it was executed, in addition to a certificate recording that the filing entry of the property was made or renewed within sixty days before the date of the application.

The applicant shall evidence that he has available an investment in real estate of 500,000 euros free and clear from liens and encumbrances. The part of the investment that exceeds 500,000 euros may be subject to liens or encumbrances.

c) In the event contemplated in article 59, section 2, paragraph c), a favorable report shall be submitted to evidence that reasons of general interest exist in the submitted business project. The report shall be issued by the Economic and Commercial Office of the geographical area in which the investor files the application for the visa.

Article 61. Effects of the residence visa for investors

The grant of the residence visa for investors shall suffice to reside in Spain for, at least, one year.

Article 62. Residence authorization for investors

1. Foreign investors who propose to reside in Spain for longer than one year may be granted a residence authorization for investors which shall be valid throughout Spanish territory.

2. To apply for a residence authorization for investors, the applicant shall meet, in addition to the general requirements contemplated in article 59, the following requirements:

a) To be a holder of a valid residence visa for investors or to be within the term of ninety calendar days after its expiry.

b) To have travelled to Spain at least once during the period authorized to reside in Spain.

c) In the event contemplated in article 59, section 2, paragraph a), the investor shall evidence that he maintained or increased the investment with a value equal to or higher than the minimum required amount:

1. In the event of unlisted shares or shareholdings, a notarized certificate shall be submitted that evidences that the investor remained during the aforementioned period the owner of the unlisted shares or shareholdings that entitled him to obtain the investors visa. The certificate shall be dated within the 30 days preceding submission of the application.

2. In the event of investment in listed shares, a certificate issued by a financial institution shall be submitted recording that the applicant maintained, at least, an average value of one million euros invested in listed shares during the aforementioned period. The certificate shall be dated within the 30 days preceding submission of the application.

3. In the event of an investment in public debt instruments, a certificate issued by a financial institution or the Bank of Spain shall be submitted evidencing that the number of public debt instruments that the investor acquired when the initial investment was made are maintained or increased during the aforementioned period. The certificate shall be dated within the 30 days preceding submission of the application.

4. In the event of an investment in a bank deposit, a certificate issued by the financial institution shall be submitted evidencing that the investor maintained or increased the deposit during the aforementioned period. The certificate shall be dated within the 30 days preceding submission of the application.

d) In the event contemplated in article 59, section 2, paragraph b), the applicant shall evidence that the investor is the holder of the real property or properties in the minimum amount required

by said article. For such purpose, he shall submit the certificate or certificates of ownership issued by the Property Registry responsible for the real property or properties, dated within the 90 days preceding submission of the application.

e) In the events contemplated in article 59, section 2, paragraph c), a favorable report issued by the Directorate General for Commerce and Investments of the Ministry of Economy and Competitiveness shall be submitted to evidence that the reasons of public interest initially evidenced are maintained.

f) Evidence of performance of tax and Social Security obligations, where appropriate.

Article 63. Term of the residence authorization for investors

1. The duration of the initial residence authorization for investors shall be two years.
2. Upon expiry of said term, those foreign investors who are interested in residing in Spain for a longer period may apply for renewal of the residence authorization for investors for a further two-year term.

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CHAPTER VI: GENERAL RULES ON THE PROCEDURE FOR GRANTING AUTHORIZATIONS

Article 71. Stay and residence visa

1. The stay and residence visas contemplated in this Second Section on International Mobility shall be granted in accordance with 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) Regulation (EU) 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.

2. A uniform visa may be issued for one, two or a multiple entries. The visa's period of validity shall not exceed five years. The period of validity of the uniform visa and the length of the authorized stay shall be decided on the basis of an examination performed in accordance with article 21 of Regulation (EC) 810/2009 of the European Parliament and of the Council of 13 July 2009.

3. Visas with limited territorial validity shall be issued where there are circumstances of national interest, in accordance with article 25 of the Visa Code (Regulation (EC) 810/2009 of the European Parliament and of the Council of 13 July 2009).

4. Residence visas contemplated in this Section shall be issued in compliance with Regulation (EU) 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. Such visas shall be valid for one year and authorize residence in Spain by their holder without the need to apply for a foreigner's identity card.

5. Visa applications shall be decided on and notified within 10 working days, other than in the case of applicants subject to the consultation contemplated in article 22 Visa Code, in which event, the term for decision shall be the general term established in said Code.

Article 72. Authorization procedure

1. Residence authorizations under this section shall be processed by the Large Enterprises and Strategic Collectives Unit, shall provide for the use of remote media and the authorizations shall be granted by the Directorate-General of Migrations.

The maximum term for a decision shall be twenty days from the filing of the application. If no decision is issued within said term, the interested party may deem that the application has been accepted due to silence on the part of the authority. All decisions shall be reasoned and may be appealed in a *recurso de alzada* (administrative appeal to a higher administrative body) in accordance with articles 114 and article 115 of the Law 30/1992, of November 26, 1992, on public authorities and common administrative procedure.

2. The holders of the authorizations regulated in this Section may apply for their renewal for two-year periods provided they maintain the conditions that generated the right.

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Additional provision four. Single permit

1. The residence authorizations contemplated herein shall be processed in compliance with Directive 2011/98/EU 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.

2. Applications for issuance, amendment or renewal of such single permits shall be filed through a single application procedure.

3. Decisions on the issuance, amendment or renewal of such single permits shall be a single administrative act, without prejudice for the procedure for issuance of the relevant visa.

Additional provision six. Residence in Spain with periods of absence from Spanish territory.

Notwithstanding the need to evidence, in compliance with legislation in force, the continuity of the residence in Spain to acquire a long-stay residence or Spanish nationality, residence may be renewed even in the case of absences of longer than six months in a year in the event of residence visas and authorizations for foreign investors or foreign workers of companies that perform their activities abroad but have established their operations base in Spain.

Additional provision seven. Maintaining of the requirements

1. Foreigners shall maintain while their visas or authorizations are in effect, the conditions due to which they were granted.
2. The responsible bodies of the Central Government may make any verifications they deem appropriate of the compliance with legislation in force.

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