

Gibraltar Residency & the Treaty

A Practical Guide for Investors, Residents and Property Buyers

1. What Has Actually Changed?

The UK–EU Agreement in respect of Gibraltar introduces a structured residence framework linked to Schengen security screening.

The key change is procedural:

Before issuing or renewing a residence permit, Gibraltar must notify Spain (acting for the EU under Schengen rules). Spain has a limited window (28 days, extendable by 14) to object on defined security grounds.

This mechanism sits within the Residence Chapter (Articles 45–54) of the treaty.

What has *not* changed:

- Gibraltar remains responsible for granting residence.
- Domestic residence categories (e.g. employment-based, self-sufficient, Category 2) remain matters of Gibraltar law.
- Spain does not gain general immigration control over Gibraltar.

2. Who Is Already Protected?

Existing lawful residents do not lose their residence status when the treaty enters into force.

The treaty provides transitional arrangements:

Residence documents issued before entry into force of the treaty remain valid until:

- Their expiry date, or
- A maximum of two years after entry into force, whichever is earlier.

During this two-year migration period, documents will be aligned with the new treaty-compliant format.

The status continues. The document changes.

3. What Happens to Existing ID Cards?

The treaty recognises that residence may be proved by an identity card or a residence permit.

However, for third-country nationals (including UK nationals for EU law purposes), Gibraltar will issue residence permits in an EU-compliant format once the treaty regime is fully operational.

Existing red ID cards and residence documentation will therefore migrate into the new format within two years of entry into force.

This does not mean residency ends. It means documentation is updated.

4. How New Residency Applications Will Work

Once the new residency rules are enacted and the current administrative pause is lifted:

1. An applicant applies to Gibraltar authorities.
2. Gibraltar assesses eligibility under domestic law.
3. Before issuing the permit, Gibraltar notifies Spain.
4. Spain has 28 days (extendable by 14) to object.
5. If no objection is received, the permit is issued.

Silence equals approval.

This notification and objection procedure is embedded within the Residence Chapter of the treaty.

5. Spain's 28-Day Role Explained

Spain's role is limited and defined.

It may object only on grounds recognised under the Schengen acquis:

- Public policy
- Internal security
- Public health
- International relations

These are EU law concepts and must be interpreted proportionately and on the basis of the individual's personal conduct.

This is not a demographic veto.

This is not a political discretion.

This is a security screening mechanism.

If Spain objects, Gibraltar must refuse issuance. The individual retains legal remedies.

6. What "Public Policy" Really Means

Under long-established EU jurisprudence, public policy measures must:

- Be based exclusively on the individual's conduct
- Represent a genuine, present and sufficiently serious threat
- Be proportionate

It cannot lawfully mean:

- Population caps
- Economic preferences
- Nationality discrimination
- General policy objections

The treaty imports these EU law principles.

7. Impact on Property Purchases

The sequencing changes.

Currently, residence often follows securing accommodation.

Under the treaty structure, buyers may prefer:

- Conditional purchase contracts tied to permit issuance
- Rental-first strategies before purchase
- Longer completion periods

The 28-day screening period is short in property terms but will influence drafting and transaction structuring.

This is an adjustment, not a structural collapse.

Markets in other residency-linked jurisdictions operate successfully with similar approval mechanisms.

8. What Happens Next?

Two developments matter:

1. Gibraltar's new residency legislation (to replace the current administrative pause framework).
2. Entry into force of the treaty.

Once criteria are published and operational procedures clarified, market certainty increases.

The long-term effect will depend more on Gibraltar's domestic thresholds than on Spain's limited objection power.