



GUIDELINES FOR USING THE ELECTRONIC PROCEDURES FOR REQUESTING ACCESS TO SPANISH PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

The objective of these *Guidelines* is to provide advice to any natural or legal person who intends to request access to Spanish plant genetic resources that fall within the scope of the Royal Decree 429/2020, of March 3, approving the Access to Plant Genetic Resources for Food and Agriculture and those Cultivated for Other Purposes Regulations, and amending various royal decrees on plant products.

The scope of the Royal Decree includes Spanish plant genetic resources for food and agriculture, including those from crop wild relatives, as well as those that may be potential donors of traits of interest to cultivars, and those cultivated for purposes other than cultivation for food and agriculture.

According to the Royal Decree 429/2020, of 3 March 2020, online applications for requesting access to Spanish plant genetic resources for food and agriculture should be submitted to the Electronic Office of the Spanish Ministry of Agriculture, Fisheries and Food.

To be able to make the submission online, you need to have a personal electronic certificate issued by the [Real Casa de la Moneda - National Mint and Stamp Factory \(FNMT-RCM\)](#) or any other electronic signature system accepted in Spain.

Alternatively, by virtue of the provisions of article 16.4 of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations, the request for access can also be submitted through the following means:

- a. At the post office, in the manner established by law.
- b. At diplomatic representations or consular offices of Spain abroad.
- c. At registration assistance offices.

In these cases, the request for access should be addressed to the corresponding competent access authority.

However, please note that if you are included in the following list, you must submit the application online:

- a. Legal persons.
- b. Entities without legal personality.
- c. Those who carry out a professional activity for which compulsory membership is necessary to carry out procedures with Public Administrations. In any case, this group includes notaries and property and commercial registrars.
- d. Those who represent an interested party who is obliged to interact electronically with the Administration.
- e. The employees of the Public Administrations for the procedures and actions that they carry out with the Administrations as part of their status as public employee



Please note: Obtaining an access authorization does not exempt from the obligation to obtain any other authorizations established by any other regulations currently in place.

REQUEST AUTHORIZATION OF ACCESS TO SPANISH PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

These Guidelines describe the procedures for requesting access to Spanish plant genetic resources through two of the access procedures regulated by the Royal Decree 429/2020, of March 3:

- **Requesting access to Spanish plant genetic resources that fall under the scope of the International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty)**
 - Plant genetic resources listed in the [Annex I of the International Treaty](#)¹, conserved *in situ* or *ex situ*, listed in Annex I that are under the management and control of the government (national or subnational) and in the public domain, for users based in countries that are signatories of the International Treaty.
 - The intended use of the plant genetic resource is exclusively its conservation and sustainable use and for research, breeding and training for food and agriculture.
 - Access to plant genetic resources not included in Annex I of the International Treaty can also be requested following this procedure if the intended use of the resource is the same as described above.

- **Requesting access to Spanish plant genetic resources that fall under the scope of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol)**
 - Plant genetic resources not included in Annex I of the International Treaty and/or the intended use of the resource is not exclusively its conservation and sustainable use and for research, breeding and training for food and agriculture.
 - The intended use of the plant genetic resource corresponds to the definition of “use” established in article 2 of the Nagoya Protocol²:
“Carrying out research and development activities on the genetic or biochemical composition of genetic resources, including through the application of biotechnology as defined in article 2 of the Convention on Biological Diversity”.
 - This procedure will not apply when access is intended exclusively for taxonomic purposes, as defined by article 2.3 of Royal Decree 124/2017, of 24 February, relative to the access to genetics resources from wild taxa and to the control of the utilization.

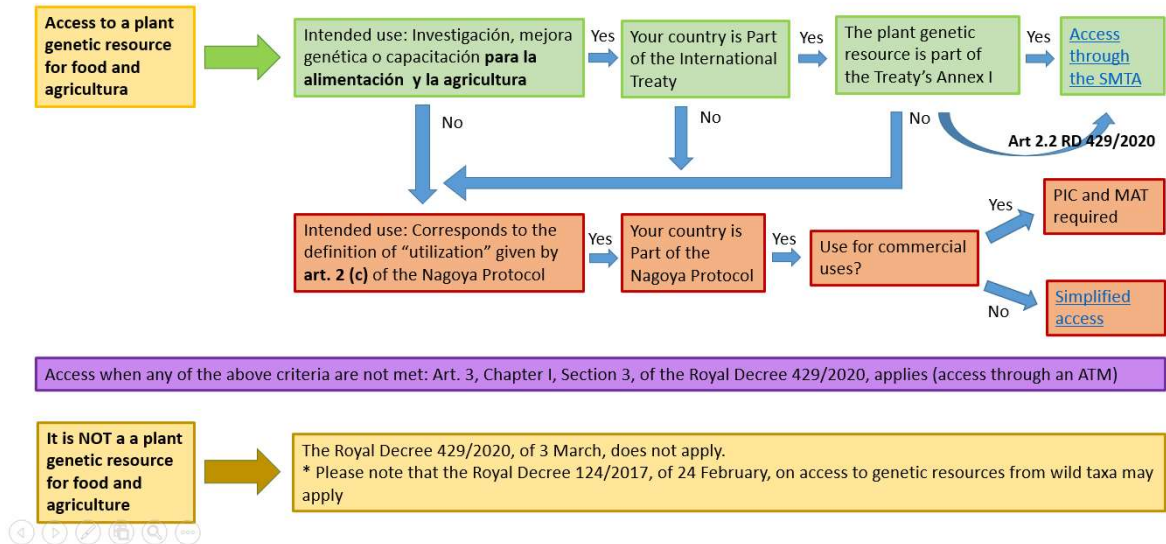
¹The full text of the International Treaty is available through the following url: <http://www.fao.org/3/a-i0510s.pdf>

²The full text of the Nagoya Protocol can be accessed through the following url: <https://www.cbd.int/abs/doc/protocol/nagoya-protocol-es.pdf>



The following **decision-making tree** may facilitate access seekers to identify what procedure has to be followed in each specific case. It can be also found at the website of the Ministry of Agriculture, Fisheries and Food, in the 'Plant genetic resources for food and agriculture' section:

Access procedures established by the Royal Decree 429/2020, of 3 March, which approves the Regulation on access to Spanish plant genetic resources for food and agriculture and to those cultivated for other uses



REQUESTING ACCESS TO SPANISH PLANT GENETIC RESOURCES THAT FALL UNDER THE SCOPE OF THE INTERNATIONAL TREATY

How do I access the procedure at the Ministry's Electronic Office?

The online application form is available at the Ministry's Electronic Office, which can be accessed through the following links:

- https://www.mapa.gob.es/es/agricultura/temas/medios-de-produccion/semillas-y-plantas-de-vivero/fitogeneticos_agricultura_alimentacion/
- <https://sede.mapa.gob.es/portal/site/seMAPA/navTablonAnuncios>

At the Electronic Office, you will find the online forms by clicking on the "Agriculture" section. Please see the image below.



The screenshot shows the 'Sede electrónica' website interface. At the top, there is a navigation bar with 'Inicio', 'Tablón de Anuncios', and 'Zona Personal'. Below this is a search filter section with a dropdown menu for 'Procedimiento' (set to 'Todos los procedimientos'), input fields for 'Fecha publicación' (Desde and Hasta), and a 'Buscar Anuncios' button. Below the search section, there is a list of announcements. The first announcement is titled 'Formulario para solicitud de acceso a RFAA bajo el ámbito de aplicación del TIRFAA'. It includes details such as 'Estado: Publicado', 'Tipo: Resolución', and 'Fecha de Publicación: 14-05-2020'. The document link is 'SOLICITUD DE ACCESO A RECURSOS FITOGENÉTICOS BAJO EL AMBITO DE APLICACIÓN DEL TIRFAA'. The page number 'Página 1' is visible at the bottom right of the list.

What are the sections of the online form that I should complete to request an authorization for accessing plant genetic resources that fall under the scope under the International Treaty?

You should add the personal information of the person who is making the access request. This person will be responsible for the access authorization issued by the competent access authority, if granted.

In the event that the request is made on behalf of a person other than the legal representative of the entity, you should select the option "In representation". To proceed with this option, you must have a digital certificate or a certificate of accredited representation of the Electronic Registry of Power of Attorney.

If the access authorisation request is made by a researcher in his personal capacity, the option "Private" should be selected. In this case, it is mandatory to attach a supporting document signed by the legal representative of the entity to which researcher is affiliated (e.g. a letter of support or a copy of the request for funding of the research project where the requested plant genetic resources are planned to be used).

The rest of the sections of the online form should be completed following the form's instructions. The questions request information about the plant genetic resources for which access is requested, the intended use of the plant genetic resource, and the specific location and estimated dates of access to the resource.

How do I finalise and submit the access authorization request?

Before submission, the correctly completed forms must be signed electronically. To do this, press "Sign and register".

The request must be addressed to the **competent authority to grant access, who will be the competent authority designated by the autonomous community** where the requested plant genetic resource is located, in the case of plant genetic resources conserved *in situ*, or the **manager of the germplasm collection**, in the case of plant genetic resources conserved *ex situ*.



Submissions can be through the Electronic Office or through any of the alternative means established, if any, by these competent authorities, by virtue of the provisions of article 16.4 of Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations.



REQUESTING ACCESS TO SPANISH PLANT GENETIC RESOURCES THAT FALL UNDER THE SCOPE OF THE NAGOYA PROTOCOL

How do I access the procedure at the Ministry's Electronic Office?

The online application form is available at the Ministry's Electronic Office, which can be accessed through the following links:

- https://www.mapa.gob.es/es/agricultura/temas/medios-de-produccion/semillas-y-plantas-de-vivero/fitogeneticos_agricultura_alimentacion/
- <https://sede.mapa.gob.es/portal/site/seMAPA/navTablonAnuncios>

At the Electronic Office, you will find the online forms by clicking on the "Agriculture" section. Please see the image below.

Two different procedures are established **depending on the intended use of the Spanish plant genetic resource for which you are seeking access.**

- The intended use is for non-commercial research purposes.
- The intended use is for commercial purposes.

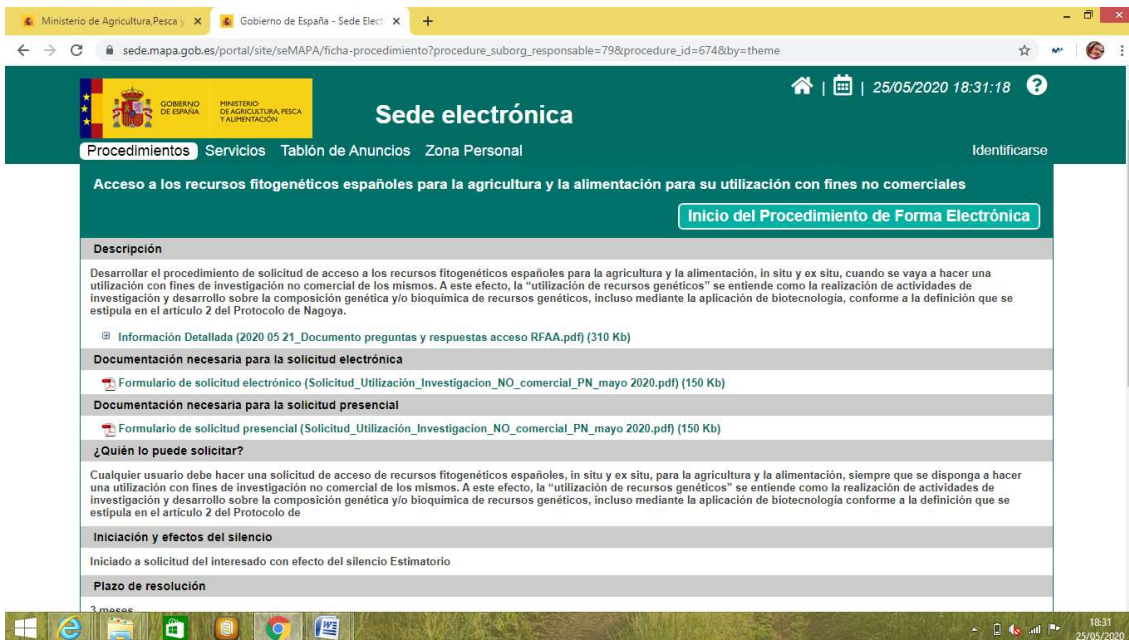
To access the corresponding online form, you have to click on the title of the appropriate procedure.

The screenshot shows the 'Sede electrónica' website of the Spanish Ministry of Agriculture, Fisheries and Food. The main navigation bar includes 'Procedimientos', 'Servicios', 'Tablón de Anuncios', and 'Zona Personal'. The 'Procedimientos' section is active, displaying a search bar and a list of procedures categorized by theme:

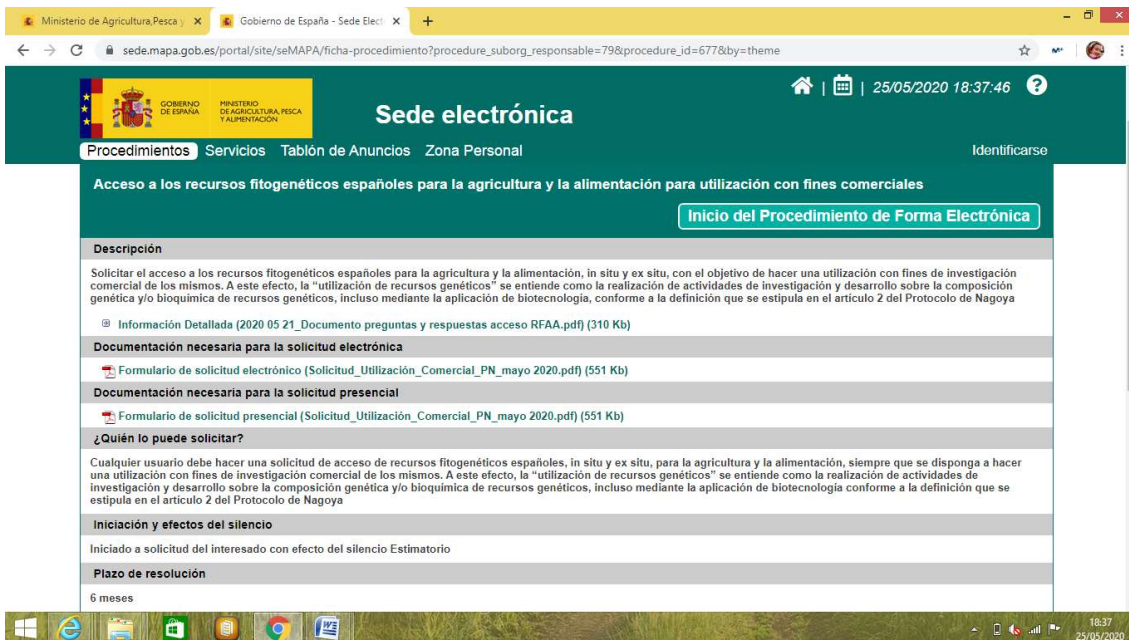
- Agricultura (45)**:
 - Acceso a los recursos fitogenéticos españoles para la agricultura y la alimentación para su utilización con fines no comerciales
 - Acceso a los recursos fitogenéticos españoles para la agricultura y la alimentación para utilización con fines comerciales
- Alimentación (19)**:
 - Acciones de información y promoción relativas a productos agrícolas en el mercado interior y en terceros países
 - Concesión directa de diversas subvenciones en materia agroalimentaria en la Subdirección General de Fomento Industrial y Asociativo Agroalimentario
- Desarrollo Rural (8)**:
 - Becas de formación práctica en el área de desarrollo rural y política forestal.
 - Invitación a las entidades financieras a participar en el Instrumento Financiero de Gestión Centralizada mediante la suscripción del convenio para facilitar los préstamos garantizados por dicho instrumento financiero
- Ganadería (12)**:
 - Autorización de una entidad elaboradora/importadora de reactivos de diagnóstico de enfermedades de los animales
 - Autorización para la comercialización de un Reactivo de diagnóstico de enfermedades de los animales.



When the intended use of the plant genetic resource is for non-commercial research purposes, the procedure is as shown by the following screen-shot:



When the intended use of the plant genetic resource is commercial purposes, the procedure is as shown by the following screen-shot:





What are the sections of the online form that I should complete to request an authorization for accessing plant genetic resources that fall under the scope of the Nagoya Protocol?

You should add the personal information of the person who is making the access request. This person will be responsible for the access authorization issued by the competent access authority, if granted.

In the event that the request is made on behalf of a person other than the legal representative of the entity, you should select the option "In representation". To proceed with this option, you must have a digital certificate or a certificate of accredited representation of the Electronic Registry of Power of Attorney.

If the access authorisation request is made by a researcher in his personal capacity, the option "Private" should be selected. In this case, it is mandatory to attach a supporting document signed by the legal representative of the entity to which researcher is affiliated (e.g. a letter of support or a copy of the request for funding of the research project where the requested plant genetic resources are planned to be used).

The rest of the sections of the online form should be completed following the form's instructions. The questions request information about the plant genetic resources for which access is requested, the intended use of the plant genetic resource, and the specific location and estimated dates of access to the resource.

What if I want to access more than one plant genetic resource for the same project?

You only have to make one access authorisation for each research project, as long as the intended use is the same for all the plant genetic resources for which access is requested. If, alternatively, you plan to use the different plant genetic resources differently, you have to make separate access authorisation requests for each of them.

Who should the access authorisation request be addressed to?

Access authorisation requests should be addressed to the General Directorate of Agricultural Productions and Markets, of the Ministry of Agriculture, Fisheries and Food, as the competent authority for access.

When the access authorisation request is for using the plant genetic resources for commercial purposes, the request should be accompanied by the prior informed consent (PIC) and the mutually agreed terms (MAT) that should have been previously obtained from the competent authority to grant them.

When the access authorisation request is for using the plant genetic resources for non-commercial purposes, the PIC and MAT are not required.

Who is the competent authority to grant the PIC and MAT when the intended use of the plant genetic resource is for commercial purposes?

When the access authorisation request is for using the plant genetic resources for commercial purposes, the request should be accompanied by the prior informed consent (PIC) and the mutually agreed terms (MAT) that should have been previously obtained from the competent authority to grant them.



The Competent Authorities is the one designated by the Autonomous Community where the requested plant genetic resource is located, in the case of plant genetic resources conserved *in situ*, or the manager of the germplasm collection, in the case of plant genetic resources conserved *ex situ*.

How do I finalize and submit the access authorisation request?

Before submission, the correctly completed forms must be signed electronically. To do it, press "Sign and register".

To attach a document, you must click on "Select file", in the section "Attach Documentation". Then, select the file in the location where you have previously saved such documents and click on "attach". Check that the document has been attached correctly and then press "next". If necessary, it is also possible to remove attachments before submitting the request.

Once that the access authorisation request has been submitted, you will get a **Registration receipt**, which contains the information that you have provided in the application. It is important that you save and keep a copy of the registration receipt.

At this stage, the application can no longer be modified. However, additional documentation can be uploaded, if necessary. In that case, you can access "my requests", under "personal area", where you will find your submitted access authorisation. If you click on the submitted form, you will find at the bottom of the page an option to attach additional documentation.

The corresponding Competent Authority will provide, where appropriate, the **Access Authorization**, which will include "**National Identifier**" of the access authorization.

Additionally, the user will obtain an **Internationally Recognized Certificate of Compliance**. This document constitutes the Access Authorization once the Competent Authority has registered the access authorisation in the Access and Benefit-sharing Clearing-House³, which was established by the Nagoya Protocol as a key tool to improve the legal certainty, clarity and transparency in access procedures and to monitor the use of genetic resources along the value chain.

Important: The person who has been granted access must keep both the National Identifier of the access authorization and the Internationally Recognized Certificate of Compliance. Both documents may be required, for example, for the submission of a due diligence statement, when appropriate.

³More information about the Access and Benefit-sharing Clearing-House is available through the following url: <https://absch.cbd.int/es/about/Introduction>