



BREXIT | Current Status for EU and UK Nationals in the Event of Either an Orderly or Disorderly Brexit

With the United Kingdom's Parliament now handing the Prime Minister's proposed Brexit withdrawal deal three significant defeats, and attempts to renegotiate with the European Union seemingly going nowhere – a “no-deal” Brexit on 29 March 2019 is now becoming an increasing possibility. As things stand now, the road forward appears to be a choice between a no-deal Brexit on 29 March or postponing Brexit beyond 29 March in hopes of eventually getting a deal.

While the UK's previous article 50 election means that the UK will leave the EU on 29 March 2019 with or without a ratified withdrawal deal, there are several ways that a no-deal Brexit may still be averted before then:

- The UK and the EU government can agree to an extension of the article 50 deadline in order to hold a general election or a second referendum to ratify a withdrawal agreement;
- Parliament can approve a different withdrawal agreement – which would also need to be acceptable to the EU. However, the UK government would likely have to drop some of its current “red lines” to achieve this; and as things appear now, the EU is only likely to agree to changes to the non-binding political declaration on a future relationship, not the binding agreement text; or
- The government may unilaterally revoke article 50 – effectively cancelling Brexit.

With two possible Brexit outcomes still on the offering, companies and individuals should be prepared for both – an **Orderly Brexit** and a **Disorderly Brexit**. Below is a quick “snap-shot” of the consequences for UK and EU nationals under both scenarios.

Orderly Brexit

EU CITIZENS IN THE UK

If a deal is eventually ratified:

- **Free movement** will continue until the end of the transition period (*31 December 2020 unless extended*);
- **All EU citizens in the UK before this date will have until 30 June 2021 to register** through the **EU Settlement Scheme**;
- **Family members in a relationship with the EU citizen** before the end of the transition period will be able to join those with settled status at any future date;
- **Rights of UK nationals resident in the EU** before the end of the transition period will be similarly protected;
- **New immigration rules** applying to EU nationals arriving after the transition period should come into effect by January 2021.

Disorderly Brexit

EU CITIZENS IN THE UK

In a no-deal Brexit scenario, there will be no transition period, and the **EU Settlement Scheme** will still operate, but the cut-off dates will be brought forward:

- **Only EU citizens already in the UK by Brexit day (29 March 2019) will qualify**, and they will be required to register by 31 December 2020;
- **Family members in a relationship with the EU citizen** before Brexit day will be able to join those with settled status until 29 March 2022.

New immigration rules are unlikely to be ready for implementation by 29 March 2019. As the European Union (Withdrawal) Act 2018 states that any EU-derived domestic legislation continues to have effect after exit day until replaced, the UK would unilaterally grant EU citizens arriving after Brexit largely similar rights as entrants before Brexit until new immigration rules take effect.

UK Nationals in the EU

In the event of either an *orderly Brexit* or *disorderly Brexit* – it is expected that UK nationals resident in EU member states will be given a chance to register to stay. Most EU member states are still in the process of establishing emergency no-deal Brexit plans.

So far, no member state has proposed granting British nationals arriving after Brexit the same rights as those arriving before Brexit. Also, it is important to bear in mind that after Brexit a residence status in one EU member state will not provide work or residence rights in any other EU member state.

The following are details of measures proposed thus far by EU member states – but be aware that this status is changing fast as we approach 29 March. Details will be updated as plans are announced and clarified, and additional states added to this list.

France: Legislation has been enacted to protect the rights of UK nationals resident in-country by Brexit day, but they must register during a transition period. The details of the rights on offer are contingent on a reciprocal offer from the UK. France triggered its no-deal Brexit contingency plans on 17 January 2019.

Germany: The authorities in Berlin have introduced an online registration system for UK national residents – who have until 30 June 2019 to register in the event of a no deal Brexit.

Netherlands: If no withdrawal agreement is reached, the Netherlands will introduce a transition period from 29 March 2019 until 1 July 2020. Before 29 March, the Dutch Immigration Service (IND) will send all UK citizens and their non-EU family members living in the Netherlands a letter which will serve as their temporary residence permit during this transition period. After this transition period, UK nationals and their family members who wish to stay, work, or study in the Netherlands will require a residence permit, which they can obtain if they meet the same residence requirements that apply to EU citizens. The IND will send invitation letters to apply for a residence permit no later than 1 April 2020.

Italy: The Italian government has announced that it is preparing legislation that will allow British citizens residing legally in Italy

to remain resident in the event of a no-deal Brexit. British citizens registered as residents at their local registry office (*'anagrafe'*) at their town hall (*'commune'*) by 29 March 2019 will be granted the rights and enough time to apply for the long-term resident status as per EU Directive 2003/109/EC.

Spain: The Spanish government has drafted contingency plans to allow UK nationals to maintain their rights and to change their status as EU citizens to a legal residency status under Spanish law and has set up an online information site spelling out the process.

Poland: On 11 January 2019, the Polish government announced draft legislation including a one-year transition period (*until 30 March 2020*) to allow UK nationals and their family members to secure their residence status. Temporary residence permits will be issued for a period of three years under the same conditions as for all third-country nationals. Those who, on the day of submission, have already been in Poland for the last five years, will be able to apply for a permanent residence permit.

Czech Republic: The Czech government is proposing a 21-month transition period to allow for residence registration.

Switzerland: The government of the UK and the Swiss Federal Council have reached an agreement protecting the rights of Swiss nationals in the UK and UK nationals in Switzerland after Brexit. It protects rights of residency, social security, and recognition of professional qualifications. The agreement covers both scenarios (*deal or no-deal Brexit*).

Iceland, Liechtenstein, and Norway: The UK government and the governments of Iceland, Liechtenstein, and Norway have reached an agreement on citizens' rights after Brexit which largely mirrors the withdrawal agreement currently agreed with the EU. It protects rights of residency, social security, and recognition of professional qualifications. The term of its provisions will last through the duration of the transition period in the EU withdrawal agreement. A separate agreement has also been reached for a no-deal Brexit. It essentially follows the general agreement, protecting rights through the end of the transition period.

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