



UK Nationals in the EU – Brexit Strategy Planning

Q As a small business owner, what would be my biggest challenge working and billing in Europe?

As a third-country citizen, you would be subject to immigration control in 27 different member states. General regulatory mechanisms, and/or obstacles, may potentially limit the provision of services into the EU.

Q At the moment of Brexit, do UK nationals need to be present in their resident country? Can UK nationals still perform work-related business trips immediately after Brexit?

The answer to these questions depends on whether there is a deal or not.

If there is a deal, a transition period applies, with a deadline of the end of December 2020 for the end of freedom of movement.

Thereafter, or in the case of no deal, on Brexit day (e.g. 31st October 2019), if UK nationals are not residents in the host member states, they will not be able to work, subject to a number of exceptions.

Q In most countries, when you use the Mobile ICT for up to 90 days you send a notification to the authorities. Do you also send the PW notification with the ICT one?

The EU Commission takes the view that there should be no duplication of Worker Notification between the Posted Worker Directive and the ICT Directive.

Q How about a UK citizen married to a German living national in Germany?

The specifics of the question are governed under German law. German law allows the family member of a German national to reside in Germany in consonance with the rights vested in the family member of an EU citizen.

Family members of EU citizens will be able to maintain all free movement rights, subject to travelling with the EU citizen or joining him/her, or being joined by him/her.

Q I have a British passport and will be travelling in the EU for several months with my wife who has an Australian passport. Is she entitled to travel with me for longer than the Schengen limitation of 90/180 days? If so, what are the implications for our travel time when Brexit occurs? Will we both be limited to the 90/180 day rule?

UK citizens will become third-country citizens, thus, the answer is yes to the latter question.

Q I have always found it difficult to find the correct website to register employees in specific countries. Is there a list of where each registration should be submitted, and what the rules are for each country (some say 8 days, some say 10 etc.)?

The matter is partly regulated under EU law (Directive 2004-38) and partly by national law for each of the 27 member states of the EU.

Q I understand settled status may be forfeited if the holder is outside the UK for more than 5 years. What does one have to do to demonstrate/re-establish residency? Is it as simple as spending #days in the UK during that period...?

Provided the EU citizen returns to the UK within the 5 year period (in the event of a deal) or within 2 years (in the event of no deal), the 5/2 year clock starts again.

As a third-country citizen, you would be subject to immigration control in 27 different member states. General regulatory mechanisms, and/or obstacles, may potentially limit the provision of services into the EU.

Q How will this affect our U.S. employees working in the UK?

No change.

Q How will Brexit affect our pension choices?

Again, subject to whether there is a deal or not. The answer to that is governed by the coordination of social security rules under Regulation 883/04.

Q If I have already applied for German nationality, do I still need to apply for the residence permit as long as I am still waiting for the German nationality confirmation?

As long as you are not a German citizen, your German immigration status will be governed by your nationality. If a UK citizen, your German immigration status will be governed under EU law (if still applicable) or German law. It is only when you become a German citizen that you will enjoy a right of abode in Germany, by virtue of you being a naturalized German citizen.

Q Are there any issues for EEA nationals if arriving after 31st October or the end of 2020 deadline?

Depends on whether there is a deal or not.

Q My colleague has EU dependent permanent residency but do they have to apply? Different websites tell me different things.

The answer to this question depends on whether there is a deal or not and where the individual in question is residing.

If there is a deal, a transition period applies, with a deadline of the end of December 2020 for the end of freedom of movement. Thereafter, or in the case of no deal, on Brexit day (e.g. 31st October 2019).

Q My son works and lives in England. Must he apply for a residence permit or a work permit?

Settled/pre-settled status is the advised process for him to take.

Q My wife is a Spanish national but has been resident in the UK for 30+ years. How will Brexit affect her status in the UK?

EU citizens must apply for settled status before the deadline (31st December 2020).

Q Now that German companies in every sector can recruit any qualified non-EU citizen, unlike previously, how will this impact immigration and asylum practices going forward, both in Germany and for the rest of the EU long-term? Will this also make things easier or harder to get residence permits for individuals already in country?

UK citizens already resident in Germany are guaranteed security of residence either under the Withdrawal Agreement or in the event of no deal.

Q What are the travel guidelines for people with pending settled status or those who haven't applied yet?

Vis-à-vis free movement rules, there are no changes foreseen by the Home Office until the end of December 2020. In other words, EU citizens will continue to be able to travel into and out of the UK with their passports or ID cards. This will continue until the end of December 2020.



Q What are the likely implications for business travellers who are supporting projects in the EU (i.e. employees that are carrying out actual work on a commuter style arrangement)?

They will have to abide by the immigration control measures of 27 different member states.

Q What would be the impact for a UK national who wants to start a business in the Netherlands in the case of no deal?

As third-country nationals, UK citizens would be subject to immigration control, just as any other third-country national (in a similar situation as a US citizen). Potentially, they might not be able to invoke the mutual recognition of their professional qualifications, thus, not be able to offer professional services. Furthermore, there might be a slew of additional regulatory barriers to trade, which are not applicable for an EU operator.

Q Will the changes result in fewer UK citizens being granted Swiss work permits, in the same way as is currently the case for other non-EU countries?

The short answer is no, given the tenor of the agreement reached between the UK and Switzerland, with an end date of the end of December 2020.

Q Will UK passport holders need a visa to holiday in the EU?

UK citizens are not visa nationals, thus under no obligation to process and obtain a Schengen visa.

Q We currently use the online 90-day notification to register our employees for short periods of work in Switzerland. I believe this is only offered to us as an EU member state. Will we lose this after Brexit?

1. Deal: Assuming there is a deal between the EU and the UK, everything would remain the same between Switzerland and the UK. Accordingly, UK citizens would continue to benefit from free movement into Switzerland until the end of December 2020.

Assuming this is the case, the process would not change even if technically the UK is outside the EU.

In other words you would be able to continue to use the same electronic means as now.

2: No Deal: In the case of a no-deal Brexit, Switzerland and the UK have committed to an agreement, whereby following the withdrawal of the UK from the EU, UK citizens going to work in Switzerland would be subject to a simplified process for residence and work, subject to a quota of 3500 for UK citizens.

Given the tenor of the agreement which is about simplifying steps and procedures after Brexit, there is the possibility that the electronic process would remain the same as it is now.

Q If a person has EU dependent permanent residence, do they still need to register for settled status? I heard on the radio that they don't, but some articles say they do.

The settled status program is a one-off exercise which is obligatory for all EU citizens with the exception of Irish citizens.

Accordingly even EU citizens (or family members) who already have a permanent residence card (or certificate) must apply for and obtain settled status before the end of the deadline, which is at the end of December 2020.