



**EUROPEAN COMMISSION**

## **MEMO**

Situation as of 1 July 2022

### **Questions and Answers – the rights of UK nationals under the Withdrawal Agreement**

This document explains residence rights of UK nationals and their family members and describes the rules of the Withdrawal Agreement that govern issuance of residence documents. It also covers recognition of professional qualifications and rights related to social security.

This document provides information on the rights of UK nationals living, as of 31 December 2020, in those EU Member States that operate a declaratory residence scheme, as set out in Part Two of the Withdrawal Agreement that entered into force on 1 February 2020.

The following Member States decided to operate a declaratory residence scheme: Bulgaria, Croatia, Cyprus, Czechia, Estonia, Germany, Greece, Italy, Ireland, Lithuania, Poland, Portugal, Spain and Slovakia. A complete list of choices Member States made for their residence system is available [here](#).

A separate document is available for UK nationals living in Member State that operate a constitutive residence scheme.

The Withdrawal Agreement gives host States a certain choice how to implement it. Depending on decisions taken by individual host States, the actual domestic rules can differ. This document describes the minimum floor of rights host States must ensure for UK nationals.

This document describes the rights UK nationals enjoy under the Withdrawal Agreement, also commonly known in the United Kingdom as the Brexit deal. It does not cover any rights stemming from the EU-UK Trade and Cooperation Agreement.



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## **1. Transition period**

### **1.1. Transition period: what was it and what did it do in terms of citizens' rights?**

The UK left the European Union on 31 January 2020.

However, both parties agreed on a transition period from 1 February 2020 to 31 December 2020. During the transition period, the United Kingdom was no longer a Member State of the European Union, and no longer participated in the EU's decision-making processes.

However, EU law, with a few exceptions, still applied to, and in, the UK. The UK remained in the EU Customs Union and in the Single Market with all four freedoms.

[EU law on free movement](#) therefore continued to apply fully during the transition period (*or "implementation period"*). This means that United Kingdom nationals were able to enjoy their EU free movement rights in the EU until the end of 2020.

### **1.2. Does EU law on free movement of EU citizens still apply to UK nationals?**

No, [EU law on free movement](#) ceased to apply on 31 December 2020 in the UK and with respect to UK nationals in the EU.

### **1.3. Were those who arrived in the host EU state during the transition period treated in the same way as those who had arrived before 1 February 2020?**

Yes. They enjoyed exactly the same rights under [EU law on free movement](#) as those who arrived before the UK withdrawal from the EU. Their rights were subject to the same restrictions and limitations, too.



## **2. Who is protected by the Withdrawal Agreement?**

### **2.1. Who is covered by the Withdrawal Agreement in the host EU state?**

To benefit from the Withdrawal Agreement, United Kingdom nationals and their family members had to be lawfully residing in the host EU state in accordance with [EU law on free movement](#) on 31 December 2020 when the transition period ended.

The Withdrawal Agreement did not require physical presence in the host EU state at the end of the transition period – temporary absences that do not affect the right of residence, and longer absences that do not affect the right of permanent residence, were accepted. For more details on absences, see [below](#).

It was enough to have resided lawfully in the host EU state on 31 December 2020. Even if a United Kingdom national did not reside in the EU host State for any given period of time before 31 December - arriving on that day was enough.

To be able to stay, United Kingdom nationals and their family members had to also continue to reside lawfully after the end of the transition period. The substantive conditions of residence under the Withdrawal Agreement are essentially the same as those under [EU law on free movement](#).

United Kingdom nationals and their family members, who fulfilled the conditions, obtained their new residence status in the host State on 1 January 2021 automatically, by operation of law.

The host EU state may still require, as an administrative formality, that United Kingdom nationals and their family members register with national authorities or apply for a new residence document so they can certify existence of their new residence status under the Withdrawal Agreement. Unlike the rules applicable to EU citizens in the UK and to United Kingdom nationals living in a host EU state with a constitutive scheme, United Kingdom nationals living in a host EU state with a declaratory scheme cannot lose their rights under the Withdrawal Agreement if they fail to register with national authorities or to apply for a new residence document. The penalty for not registering/applying in time is a financial sanction, at worst. It cannot lead to a loss of rights under the Withdrawal Agreement.

The residence conditions under the Withdrawal Agreement mirror the conditions set out in [the Free Movement Directive](#) (*Articles 6 and 7 of the Directive confer a right of residence for up to five years on those who work or have sufficient financial resources and sickness insurance. Articles 16 – 18 of the Directive confer a right of permanent residence on those who have resided legally for five years*).

With the new residence document, United Kingdom nationals and their family members can easily evidence their rights under the Withdrawal Agreement.



## **2.2. In short, what is needed to stay in the host EU state?**

Two things! To be eligible to stay, United Kingdom nationals and their family members need to:

- 1) have a right of residence in the host EU state on 31 December 2020 in accordance with EU law; and
- 2) continue to meet the residence conditions after 31 December 2020.

Depending on the actual design of the national residence scheme in the host EU state, they may also have to apply under the national residence scheme to have their new residence status registered/certified. Failure to apply can result in a fine and never in a loss of rights under the Withdrawal Agreement.

## **2.3. Is there a grace period, like in the United Kingdom?**

No.

The Withdrawal Agreement allows EU Member States to set a deadline by which resident United Kingdom nationals and their family members must apply for a new residence status or risk losing their rights under the Withdrawal Agreement. However, such deadline can only be used in Member States that operate a constitutive residence scheme. Your host EU Member State opted to operate a declaratory residence scheme in which such deadline is prohibited.

## **2.4. EU law on free movement of EU citizens – what does it cover?**

Under EU law, EU citizens (*and their family members*) have the right of residence in all Member States other than that of their nationality under several instruments of EU law:

- a) the [Treaty on the Functioning of the European Union](#) itself (*Articles 21, 45, 49 or 56*); b) [the Free Movement Directive](#);
- c) [the Regulation on Freedom of Movement for Workers](#);

For the vast majority of cases, detailed rules applicable to mobile EU citizens are to be found in [the Free Movement Directive](#). This should be the starting point for learning more about:

- rights and entitlements;
- the rights of family members;
- conditions attached to the right of residence;
- administrative procedures; and
- safeguards protecting the right of residence.

United Kingdom nationals and their family members who reside in the host EU state and meet the conditions of EU law before and after the end of the transition period are protected by the Withdrawal Agreement.



## □ Residence conditions in more detail

### **2.5. I arrived in the host EU state in 2017. I work in a local hospital. Can I stay after 31 December 2020?**

Yes. If you to continue to work (*or if you, for example, involuntarily stop working in accordance with [Article 7\(3\) of the Free Movement Directive](#), or become self-employed, a self-sufficient student or a job-seeker*) then you can stay in the host EU state after the end of the transition period.

You have the right to reside in the host EU state under the Withdrawal Agreement after the end of the transition period. To keep your residence, you must comply with essentially the same substantive conditions as were applicable before the end of the transition period by [EU law on free movement](#).

You may have to make an application to the national authorities to have your new status registered/certified under the national residence scheme. Once you have accumulated five years of legal residence in the host EU state, your residence status in the host EU state will be automatically upgraded to a permanent one that offers more rights and better protection. You will be able to apply to have your permanent residence right certified.

### **2.6. I live and study in the host EU state. Do I have to start working to retain my rights there?**

The Withdrawal Agreement protects those United Kingdom nationals who reside in the host EU state in accordance with the conditions which [EU law on free movement](#) attaches to the right of residence. In essence, United Kingdom nationals meet these conditions if they:

- are workers or self-employed; or
- have sufficient resources and sickness insurance; or
- are family members of someone who meets these conditions; or
- have already acquired the right of permanent residence (*that is no longer subject to any conditions*).

To reside as a student, you need to have sufficient resources and sickness insurance. It is possible to switch between the above categories (*for example finishing your studies to start working*). You will keep your rights as long as you meet the conditions for at least one category.

You may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.



**2.7. Are United Kingdom nationals who arrived in the host EU state to look for a job several months before the end of the transition period protected in any way?**

Yes. United Kingdom nationals looking for jobs in the host EU state before the end of the transition period are entitled to stay for six months after their arrival (*or longer if they have a genuine chance of being hired*). They may have to make an application to the national authorities under the national residence scheme to have their new status registered/certified.

**2.8. I arrived in the host EU state in 2019 but did not find a job. I am currently out of money. Can I stay now?**

The Withdrawal Agreement protects those United Kingdom nationals who were residing in the host EU state in accordance with the conditions which [EU law on free movement](#) attaches to the right of residence. In essence, United Kingdom nationals meet these conditions if they:

- are workers or self-employed; or
- have sufficient resources and sickness insurance; or
- are family members of some other United Kingdom national who meets these conditions; or
- have already acquired the right of permanent residence (*that is no longer subject to any conditions*).

Those United Kingdom nationals who do not meet these conditions at the end of the transition period have no legal entitlement to stay in the host EU state under the Withdrawal Agreement and their situation depends on the domestic law or EU legal migration law.

**2.9. I live in London but am commuting to the host EU state for work. Can I continue working in the host EU state?**

Yes. The Withdrawal Agreement also protects so-called frontier workers. Under the Withdrawal Agreement, a frontier worker is someone who works or is self-employed in one country and resides in another country. You can continue working in the host EU state while residing in London. You can apply to the national authorities for a document that certifies that you are a frontier worker protected by the Withdrawal Agreement. This document will make it easier to travel to the host EU state, continue working there and return to London.

**2.10. I acquired a permanent residence document from the host EU state in 2017. What changes for me?**

You may have to make an application to the national authorities under the national residence scheme to have your new permanent residence status registered/certified.



**2.11. In 2018, I arrived in the host EU state to work in construction. Unfortunately, I recently had an accident at work and I am permanently incapacitated. I hope I will not have to leave!**

You won't. Those who had to stop working as a result of permanent incapacity to work caused by an accident at work obtain a right of permanent residence under [EU law on free movement](#). That right is protected after the end of the transition period.

You may have to make an application to the national authorities under the national residence scheme to have your new permanent residence status registered/certified.

**2.12. I have worked in the host EU state since 1995. I plan to retire in several years. I am looking for advice on whether I will be able to stay after my retirement.**

Yes. As somebody who has resided and worked in the host EU state for at least five years, you have already obtained a right of permanent residence there that is no longer subject to any conditions (*such as having to continue working*). However, you may have to make an application to the national authorities under the national residence scheme to have your new permanent residence status registered/certified.

□ Rules on absences

**2.14. I arrived in the host EU state in 2018 to study. In 2020, I studied in another EU Member State on Erasmus+ for five months and then returned to the host EU state. I hope this move has no negative impact on my residence in the host EU state!**

It has no impact on your rights in the host EU state. [EU law on free movement](#) says that periods of absence of less than six months in a year do not affect continuity of residence. These safeguards are included in the Withdrawal Agreement as well.

**2.15. According to the Withdrawal Agreement, I can be absent for up to six months a year without endangering my residence status in the host EU State. What does "six months a year" mean?**

The "six months a year" rule in the Withdrawal Agreement copies the same rule of [the Free Movement Directive](#). It has the same interpretation. Under the EU Free Movement Directive EU citizen may be temporarily absent for periods not exceeding a total of six months within each year. Each year starts on the anniversary of the date when the EU citizen commenced residence in the host country.





**2.16. I acquired the right of permanent residence in the host EU state under EU free movement laws in 2010. I left the host EU state in March 2017 to study in another EU Member State. Did I have to return to the host EU state before the end of the transition period in order not to lose my rights there?**

No. As you had permanent residence in the host EU state before your departure, you are covered by the Withdrawal Agreement if you return within five years of your departure (*so before March 2022*). However, you may have to make an application to the national authorities under the national residence scheme to have your new permanent residence status registered/certified.

**2.17. I have enrolled at a university in the host EU state to start my studies in academic year 2020/2021. Unfortunately, I was unable physically to travel to the host EU state due to all coronavirus-related travel restrictions. I attend my studies remotely. Does the Withdrawal Agreement still protect me?**

Unfortunately, only those United Kingdom nationals who arrived in the host EU state before the end of the transition period are guaranteed the Withdrawal Agreement's protection. The host EU state can be more flexible to take into account all the extraordinary circumstances.

**2.18. I arrived in the host EU State just before the end of the transition period but I had to leave shortly afterwards to take care of an important family matter. Am I still protected?**

Yes, it is important that you arrived in the host EU State before the end of the transition period. Once present in the host EU State under EU law on free movement of EU citizens, you can be absent for up to six months for any reason (or longer, in certain cases) without affecting your rights.

□ Specific cases

**2.19. Back in 2006, I came to the host EU state to work, relying on my British nationality. Recently, I have obtained citizenship of the host EU state. As a dual EU/British national, what is my status?**

Your nationality of the host EU state gives you an unconditional right of residence there. Since your naturalisation, your residence in the host EU state is no longer under [the Free Movement Directive](#). Because your residence was under EU free movement law by virtue of your British nationality, on the other hand, this ensures that you continue to be covered by the Withdrawal Agreement.



Your nationality of the host EU state gives you an indefinite right to reside there and you can also rely on the Withdrawal Agreement, for example, for family reunion rights.

**2.20. I arrived in the host EU state many years ago to join my wife, national of that host EU state. She has a disability and I care for her and assist her full time. I think that my residence in the host EU state is legal but I am concerned whether the Withdrawal Agreement protects me.**

Only those United Kingdom nationals who were residing in the host EU state at the end of the transition period in accordance with the conditions which [EU law on free movement](#) attaches to the right of residence are guaranteed to be protected by the Withdrawal Agreement.

If you meet all the conditions of residence as a self-sufficient EU citizen you have a right to stay after the end of the transition period under the rules of the Withdrawal Agreement.

**2.21. I live with my Brazilian family in the host EU state since 2011. I understand that my right to stay in the host EU state is protected – but what about my right to return to the UK with my family, based on the *Surinder Singh* line of case law of the Court of Justice?**

The Withdrawal Agreement protects the rights of those who have made use of their free movement and live in a state other than that of their nationality. It does not protect those who reside in the state of their nationality, regardless of whether they have returned home before or after the end of the transition period.

Relevant UK domestic laws will determine whether your family members will be able to live with you in the UK.

**2.22. I live in the host EU state with my five-year old daughter, national of that host EU state, as her primary carer under the so-called *Ruiz Zambrano* rule. Can I stay?**

Only those who were residing in the host EU state at the end of the transition period in accordance with the conditions which [EU law on free movement](#) attaches to the right of residence are guaranteed to be protected by the Withdrawal Agreement.

Those who reside in the host EU state exclusively on the basis of EU citizenship of their family members do not fall under the Withdrawal Agreement. EU citizenship rules and applicable domestic laws determine their residence status after the end of the transition period. We recommend you seek legal advice.



### **3. Family members**

#### **3.1. My British dad works in the host EU state. I live with him and study at a local primary school. May I stay in the host EU state?**

Yes. You have the right to stay in the host EU state with your dad. The Withdrawal Agreement makes sure that all family members, irrespective of their nationality, who were lawfully residing at the end of the transition period with a United Kingdom national in the host EU state can stay under the same conditions that existed before the end of the transition period.

You may, however, have to make an application (or check that your dad applies on your behalf) to the national authorities under the national residence scheme to have your new status registered/certified.

#### **3.2. I am Korean. I came to the host EU state to live with my British husband but the marriage hit a rough patch recently. I want to file for divorce but I am afraid what it will mean for my right of residence.**

The Withdrawal Agreement replicates [EU law on free movement](#) which, under certain conditions, already protects non-EU spouses who divorce from an EU citizen. If you have been married for at least three years before you divorce and have lived in the host EU state for at least one year before the initiation of divorce proceedings, you can continue to reside there after the end of the transition period. Once your divorce becomes final, there are conditions which [EU law on free movement](#) attaches to the right of residence, as if you were a United Kingdom national yourself.

In any event, you may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified. If you do not have five years of continuous residence in the host EU state, you will obtain pre-permanent right of residence in the host EU state. Once you accumulate five years of continuous residence in the host EU state, you will automatically acquire a right of permanent residence and will be able to apply to have your permanent residence right certified.

#### **3.3. I live and work in the host EU state with my British partner. We plan to have a baby soon. Should we have accelerated our plans and have had the baby before the end of the transition period?**

There is no need to rush. The Withdrawal Agreement makes sure that children born to British families residing in the host EU state before and after the end of the transition period are able to stay. Your baby may have the nationality of the host EU State from birth, but if not, your baby will be protected under the Withdrawal Agreement. In the latter case, you may have to apply under the national residence scheme to have your baby's residence status registered/certified.



**3.4. I am Russian and live in the host EU state with my British spouse. I was issued with an EU residence card back in 2018. Can I stay?**

Yes, you can stay. The Withdrawal Agreement protects all those family members who have lawfully resided with a United Kingdom national in the host EU state before the end of the transition period. They are allowed to stay but may have to make an application to the national authorities under the national residence scheme to have their new status registered/certified.

**3.5. I live in the host EU state with the child I adopted. Can we stay together?**

Yes, you can stay together. The Withdrawal Agreement protects all those family members who have lawfully resided with a United Kingdom national in the host EU state before the end of the transition period. Adopted children are treated in the same way as biological children. However, you may have to make an application to the national authorities under the national residence scheme to have your child's new status registered/certified.

**3.6. For children born after the end of the transition period, the Withdrawal Agreement requires that the parent residing in the host State has custody of the child. Does it only protect divorced couples?**

No. Custody is defined very broadly in the Withdrawal Agreement. It includes rights of custody acquired by operation of law, by court judgment or even by an agreement between parents.

**3.7. Several years ago, I applied to the national authorities to be able to join my British cousin living in the host EU state because I was financially dependent on her. The national authorities accepted that and issued me with an EU residence card. What happens to me now?**

You can stay. The Withdrawal Agreement protects all those family members who have lawfully resided with a United Kingdom national in the host EU state before the end of the transition period. You are allowed to stay but may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.

**3.8. Recently, I was granted an entry visa to join my British aunt living in the host EU state. My aunt is providing me with financial support after my parents died. I arrived in the host EU State but**



**my application for residence was still pending at the end of the transition period. What will happen to me?**

In accordance with [EU law on free movement](#), your application is to be decided under national legislation and your residence should be facilitated. Should the national authorities decide to grant you residence, you will be covered by the Withdrawal Agreement. Any refusal must be fully justified and is subject to appeal.

**3.9. I am the unmarried partner of a United Kingdom national residing in the host EU state. I plan to join him there but I can do it only in four years because of existing work commitments in my country, Canada. Will I be able to join him?**

Yes. The Withdrawal Agreement protects partners who had been in a durable partnership with a United Kingdom national at the end of the transition period but were not residing with that partner in the host EU state. You will be able to join your partner in the host EU state, provided that you remain in a durable partnership with him at the point you seek to come to the host EU state. You may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified after your arrival in the host EU state.

The requirement of durability of the relationship must be assessed in the light of the objective to maintain the unity of the family in a broad sense. National rules can refer to a minimum amount of time as a criterion for whether a partnership can be considered as durable. However, in this case national rules must ensure that other relevant aspects (such as for example a joint mortgage to buy a home) are taken into account.

**3.10. I am the nephew of a United Kingdom national living in the host EU state. I plan to join him there but I can do it only in four years because of existing study commitments in my country. Will I be able to join him?**

The Withdrawal Agreement does not protect extended family members of United Kingdom nationals (*except those in durable partnerships*) who were neither residing with their relative at the end of the transition period nor had made an application before the end of the transition period to join their relative. If you want to join your relative in the host EU State in four years' time, you will be subject to the applicable domestic and EU immigration law.

**3.11. I study in the host EU state. My wife lives abroad, together with our little baby. They would like to join me once the studies are over and I have found a job. Will they be able to do so?**



They will be able to join you, even after the end of the transition period. The Withdrawal Agreement protects not only those close family members who have lawfully resided with a United Kingdom national in the host EU state before the end of the transition period, but also those close family members who were related to a United Kingdom national at the end of the transition period but were not residing in the host EU state. They will be able to join you, provided you are still married at the point your wife seeks to come to the host EU state. Your wife and child may have to make an application to the national authorities under the national residence scheme to have their new status registered/certified after their arrival in the host EU state.

**3.12. I live and work in the host EU state. I am single but, hopefully, one day I will marry. As a United Kingdom national, I hold a residence status under the national residence scheme. Will my future spouse be able to join me? What if we have a baby?**

Your future spouse will not be able to join you under the Withdrawal Agreement, as it does not protect those who will marry a United Kingdom national after the end of the transition period and were not already in a durable relationship with the United Kingdom national before the end of the transition period. Any such future spouse will have to comply with the applicable domestic and EU immigration law.

Any future child will be able to join a United Kingdom national resident in the host EU state before the end of the transition period if that UK parent has legal custody of the child. You may have to make an application to the national authorities under the national residence scheme to have your child's new status registered/certified.

**3.13. I am an Argentinian working in the host EU state where I live with my 6-year old British son and 2-year old Argentinian daughter. Can we stay?**

All of you can stay provided you and your British son meet the conditions for lawful residence. The Withdrawal Agreement ensures that it is not only United Kingdom nationals who can stay in the host EU state after the end of the transition period, but also those non-EU family members (*i.e. you and your daughter*) whose presence is required in order not to deprive your son's right of residence granted by the Withdrawal Agreement.

You all may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.

**3.14. I am from Australia. I live in the host EU state as the primary carer of my British son studying there. My British partner who worked in the host EU state has left us. Am I able to stay?**



The Withdrawal Agreement gives you the right to reside in the host EU state until your son completes his education. You keep this right at least until your son reaches the age of majority, and possibly afterwards for as long as he continues to need your presence and care in order to pursue his studies. The Withdrawal Agreement does not guarantee you any right to stay permanently in the host EU state but the applicable domestic and EU immigration law may do so. However, you and your son may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.



## **4. Residence rights**

### **4.1. I live in the host EU state with my mum who works as an engineer. I go to school but I hope to open my own flower shop. Will I be able to stay and start working once I have finished school?**

Yes. You will not only be able to stay in the host EU state, but you also keep all the options there [EU law on free movement](#) confers on those who live abroad. You will be able to work, study, run a business or stay at home and care for your family members. Your rights will not be affected once you start working. However, you may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified. Maybe your mum can also apply on your behalf.

### **4.2. I arrived in the host EU state in 2017 and have been selfemployed since. Can I get permanent residence there and, if so, under what conditions?**

Having resided in the host EU state for less than five years, you should have a pre-permanent right of residence under your new residence status. Once you have completed five years of continuous and legal residence in the host EU state (*including periods of residence before and after the end of the transition period*), you will automatically acquire the right of permanent residence .

The Withdrawal Agreement protects those United Kingdom nationals who were residing in the host EU state in accordance with the conditions which [EU law on free movement](#) attaches to the right of residence. In essence, residence of United Kingdom nationals is legal if they:

- are workers or self-employed; or
- have sufficient resources and sickness insurance (including students); or
- are family members of a United Kingdom national who meets these conditions.

You may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.

### **4.3. I have lived in the host EU state with my parents for nine years. They both work. Do I have any residence rights in the host EU state?**

Yes. As somebody who has lived in the host EU state for at least five years, you have already obtained a right of permanent residence under [EU law on free movement](#) that is no longer subject to any conditions (*such as having to continue being a family member*). This right is preserved





under the Withdrawal Agreement. You may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.

**4.4. I study at a university in the host EU state. If all goes well, my studies will finish in 2022. Will I be able to stay in the host EU state and look for a job there?**

Yes. You can stay in the host EU state. You may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.

If, at the date of application, you do not yet have five years of continuous residence in the host EU state, you will obtain a pre-permanent right of residence in the host EU state. After five years of continuous lawful residence in the host EU state, you will automatically acquire a right of permanent residence.

United Kingdom nationals can 'switch': students can start working (*and become workers*), workers can retire (*and become self-sufficient persons*), self-sufficient persons can start studying and so on.

**4.5. I have permanent residence in the host EU state where I was born and raised. My university studies are well underway and I already have a great job offer in another EU Member State. They are offering me a three-year contract but I am afraid that if I leave the host EU state I will not be able to return. Please, dispel my doubts!**

You can leave the host EU state for up to five years and then return without that status lapsing. The five-year absence rule also protects those United Kingdom nationals who were absent from the host EU state at the end of the transition period but return to their host EU state within 5 years. As the Withdrawal Agreement does not confer any right to move to another EU Member State, you would need to rely on other legislative instruments of national or EU law for your right to reside in the EU Member State in which you were offered a job.

**4.6. I have permanent residence in the host State where I was born and raised. I started studies in another EU Member State in early 2020. Does the Withdrawal Agreement give me the right to take a job in yet another EU Member State when I graduate?**

No. The Withdrawal Agreement only protects your right to reside in those EU Member States in which you were exercising your right to move and reside freely under EU law on 31 December 2020. This protected right to reside is maintained for as long as the conditions attached to its



continued existence are met (for example, that you continue to have sufficient resources and comprehensive sickness insurance or that you have not been absent for more than five years where you have a right of permanent residence).

The Withdrawal Agreement does not confer any right to move to another EU Member State. You would need to rely on other legislative instruments of national or EU law.

**4.7. I have been living and working in the host EU state for 15 years. I hope that I can remain there. Could you please reassure me that I can keep my rights and entitlements indefinitely?**

There is no 'expiry date' by which rights expire. All those protected under the Withdrawal Agreement keep their rights and entitlements, once acquired, for life.

You may have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.

Some rights may, however, lapse in certain circumstances. For example, permanent residence rights lapse if a person is absent from the host EU state for a continuous period exceeding five years.

**4.8. I have lived in the host EU state for the last twenty years. I receive social assistance benefits. I guess I can stay but will I still get the benefits I need?**

Yes. All United Kingdom nationals resident in the host EU state who qualify for protection by the Withdrawal Agreement keep their right of equal treatment. This means that where they were entitled to a benefit, entitlement or advantage before the end of the transition period, they will continue to enjoy the same treatment.

However, you may have to make an application to the national authorities under the national residence scheme to have your new permanent residence status registered/certified.

**4.9. I study at a university in the host EU state. Do I have to pay higher tuition fees now, after the end of the transition period? Do I have access to student loans?**

All United Kingdom nationals resident in the host EU state who qualify for the new Withdrawal Agreement residence status keep their right of residence and of equal treatment.

For students with a residence status under the Withdrawal Agreement, this means that they continue to pay the same tuition fees as nationals of the host EU state.



As regards access to maintenance aid for studies, such as student grants or student loans, UK students covered by the Withdrawal Agreement continue to enjoy the same treatment as they enjoyed under EU law.

#### **4.10.I reside in the host EU state and I am protected by the Withdrawal Agreement. Do I still enjoy free movement rights within the EU?**

United Kingdom nationals protected by the Withdrawal Agreement in one Member State will not be able to invoke the Withdrawal Agreement to obtain the right to move freely to another Member State, to establish themselves or to provide services or cross-border services to persons established in other Member States that applied before the end of the transition period under EU law.

This does not affect any rights UK nationals may enjoy under other instruments of EU or national law.

#### **□ Governance of the Withdrawal Agreement**

#### **4.11. I believe that my rights under the Withdrawal Agreement have been violated. What can I do to remedy that?**

The first step should be explaining your complaint to the national authority that you believe made a mistake and asking it to remedy the problem.

If this does not help or if you think it is futile, you can make an appeal and ask domestic courts to examine your case.

You can also report the breach of your rights to the Commission at [https://ec.europa.eu/info/law/law-making-process/applying-eu-law\\_en#how-to-make-a-complaint](https://ec.europa.eu/info/law/law-making-process/applying-eu-law_en#how-to-make-a-complaint).

#### **4.12. Where can I find more information about the implementation of the Withdrawal Agreement?**

The best source of information are joint EU-UK reports on the implementation of residence rights that are regularly updated. The reports can be found at

[https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement/implementing-withdrawal-agreement/citizens-rights\\_en](https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement/implementing-withdrawal-agreement/citizens-rights_en).

#### **4.13. What prevents the national authorities from modifying their laws on the new residence status in the future?**



The Withdrawal Agreement makes it very clear that the new residence status cannot be withdrawn on grounds other than those expressly allowed in the Withdrawal Agreement (*such as through absences, or as a result of committing a crime*).

Rights under the Withdrawal Agreement are binding under international law and United Kingdom nationals and their family members are able to directly rely on their rights under the Withdrawal Agreement in the host EU state. The host EU state has to ensure that citizens' rights under the Withdrawal Agreement are properly incorporated into domestic law.

**4.14. I note that the criteria for residence are based on concepts of EU free movement law, as interpreted by the Court of Justice of the European Union but what if the host EU state has not correctly enacted EU free movement law so they use the wrong interpretation?**

The Withdrawal Agreement is clear: where the criteria for residence are based on concepts of EU free movement law, they must be interpreted in line with decisions given by the Court of Justice of the European Union before the end of the transition period.

Where the host EU state relies on an incorrect interpretation of the concepts of EU law that conflicts with such a decision, it is the Court of Justice's interpretation that must ultimately prevail.

In addition, national courts must have due regard to the interpretations of the Court of Justice of the European Union in case law handed down after the end of the transition period.



## **5. Entry and exit rules**

### **5.1. After Brexit, can I travel to the EU?**

Before the end of the transition period, United Kingdom nationals were able to travel freely with just a valid passport. The same applies after the end of the transition period.

Having a new residence document issued under the Withdrawal Agreement will facilitate crossing the border as it assures the national authorities that the traveller has a right of residence in the host EU state. It is strongly recommended to apply for the new residence document issued under the Withdrawal Agreement.

Entry rules for other United Kingdom nationals (*those who have not resided in the host EU state at the end of the transition period*) who fall outside the scope of the Withdrawal Agreement are governed by the applicable EU Schengen laws.

### **5.2. As a British citizen residing in the host EU state, can I be subject to entry visa requirements in the future?**

No – as long as you hold a valid document evidencing your new residence status under the Withdrawal Agreement.

### **5.3. I do not reside in the EU but I regularly visit some EU Member States, do I need an entry visa?**

EU rules on common visa policy determine whether you need an entry visa. Currently, there is no visa requirement for United Kingdom nationals visiting the EU.

### **5.4. I live in the host EU state. My Chinese spouse just started her university course in Melbourne. Which visa rules will apply to her in 2025, when she joins me in the host EU state for the first time?**

Assuming that Chinese nationals will be subject to visa requirements in 2025 under the EU rules on common visa policy, your spouse will still enjoy the safeguards of the Withdrawal Agreement that ensure that her entry visa should be issued free of charge and on the basis of an accelerated procedure.

### **5.5. I live in Italy with my Egyptian husband. We both have the new residence document certifying our status under the Withdrawal Agreement. Will he need a visa when we visit France?**



No, he will not need a visa when you visit France, as France is part of the Schengen area and he holds a residence document issued by another Schengen Member State.



## **6.Criminality & abuse**

### **6.1. I have lived and worked in the host EU state for 11 years. In 2019, I was convicted of a criminal offence and sentenced to a five-month term of imprisonment. Can this imprisonment affect my rights?**

Criminal conduct may have consequences for the right of residence, be it under [EU law on free movement](#) or under the Withdrawal Agreement. For crimes committed before the end of the transition period, the rules of [the Free Movement Directive](#) apply (*Chapter VI*).

This means that all decisions affecting the right of residence taken on the grounds of crimes committed before the end of the transition period have to be taken on a strict case-by-case basis and only those offenders whose personal conduct represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society can be removed.

### **6.2. What happens to United Kingdom nationals allowed to stay in the host EU state under the Withdrawal Agreement who commit a crime?**

Whether a State is entitled to restrict the residence rights of a United Kingdom national for a crime committed after the end of the transition period is a matter for the domestic law of that State. However, the Withdrawal Agreement requires that any such measure is proportionate and subject to judicial redress.

### **6.3. I am worried that many can try to cheat their way in by pretending to be covered by the Withdrawal Agreement. What safeguards the authorities have?**

All the safeguards which Member States have at their disposal under [EU law on free movement](#) to guard against abuse and fraud are replicated under the Withdrawal Agreement. The host EU state is able to adopt the necessary measures to refuse, terminate or withdraw any right conferred by the Withdrawal Agreement in the case of abuse of rights or fraud, such as marriages of convenience, forgery of documents or false representation of a material fact crucial for the right of residence. Any such measure must be proportionate and subject to judicial redress.

### **6.4. Can decisions of the national authorities based on abuse of rights rules result in loss of the appeal rights?**

Abuse or fraud can result in loss of residence but never in loss of appeal rights. The host EU state can restrict free movement rights of those United Kingdom nationals who are proven to be abusing



[EU law on free movement](#) (*such as marriages of convenience*). Once abuse or fraud is proven by the national authorities, the affected persons have full appeal rights against a decision restricting their rights of residence on those grounds, including the right to stay while the appeal is pending within the limits of Article 31(2) of [the Free Movement Directive](#).





## **7. Administrative procedures**

### **7.1. Where can I find best information about my rights and the procedure?**

The best sources of information can be found at [https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement/implementing-withdrawal-agreement/citizens-rights\\_en](https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement/implementing-withdrawal-agreement/citizens-rights_en), <https://www.gov.uk/guidance/living-in-europe> and [https://europa.eu/youreurope/citizens/residence/brexit-residence-rights/uk-nationals-living-in-eu/index\\_en.htm](https://europa.eu/youreurope/citizens/residence/brexit-residence-rights/uk-nationals-living-in-eu/index_en.htm). You will find there also information about the best national websites.

You can always ask the UK embassy or consulate for assistance and advice.

### **7.2. There is a new residence status under the national residence scheme. Does it apply to United Kingdom nationals and what does it mean?**

All United Kingdom nationals and their family members residing in the host EU state automatically acquire a new residence status. They may have to make an application to the national authorities under the national residence scheme to have their new status registered/certified.

### **7.3. As a United Kingdom national residing in the host EU state, I did not have to apply for a residence document before the end of the transition period. Am I obliged to do so now?**

During the transition period, EU free movement rights continued to apply as if the UK were still a member of the European Union. United Kingdom nationals were able to enjoy their full rights in the host EU state until the end of the transition period and there might not have been any obligation to apply for a residence document.

However, United Kingdom nationals may have to make an application to the national authorities under the national residence scheme to have their new status registered/certified. This is not a legal precondition for their continued residence in the host EU state. The new residence document is physical and should help United Kingdom nationals and their family members to prove their residence status not only to the national authorities or police, but also to employers, banks, landlords or anyone else.

### **7.4. Does having the new residence status mean that United Kingdom nationals lose old rights they enjoyed under EU law?**



After the end of the transition period, [EU law on free movement](#) no longer applies in the UK and with respect to United Kingdom nationals.

The substantive conditions under the Withdrawal Agreement on which United Kingdom nationals obtain a new residence status essentially correspond to those laid down in [EU law on free movement](#) for obtaining or losing the right of residence in the EU host state where you reside now. There is no discretion for the national authorities to refuse an application for a new residence document on grounds not allowed under [EU law on free movement](#). Nobody entitled to protection is left behind.

The conditions for losing the new residence status are, on the one hand, more beneficial compared to those in [EU law on free movement](#) as United Kingdom nationals and their family members can leave the host EU state for five years without losing their permanent residence right (*EU free movement rules provide only for two years*).

On the other hand, United Kingdom nationals can lose their new residence status more easily if they commit a crime in the host EU state after the end of the transition period. Where the crime takes place after the end of the transition period, the decision can be taken in accordance with national law of the host EU state and all the constraints coming from domestic and international law instruments applicable in the host EU state.

**7.5. It is not clear to me which criteria determine if a United Kingdom national has the new Withdrawal Agreement residence status. Can you please explain?**

The substantive criteria for United Kingdom nationals to have the new residence status in the host EU state are essentially the same as those laid down in [EU law on free movement](#).

**7.6. Until when do I have to apply for a new residence status under the national residence scheme?**

In host EU states with a declaratory residence scheme, the Withdrawal Agreement directly confers the new residence status on United Kingdom nationals and their family members so they do not need to make any application for it to be granted.

Depending on the actual design of the national residence scheme in the host EU state in which you live, you may, however, have to make an application to the national authorities under the national residence scheme to have your new status registered/certified.

**7.7. What is going to happen if the national authorities take ages to decide on my application for the new residence document?**



The national authorities have the same deadlines as they are under [EU law on free movement](#) to decide on your application. However, your residence status is conferred on you directly by the Withdrawal Agreement and not by the decision of the national authorities. If they are delayed, this does not affect the very existence of your rights. A positive decision then merely certifies that the right of residence under the Withdrawal Agreement existed and exists.

Should the application for a new residence document be refused, you will be entitled to appeal and stay until the appeal is finally decided.

### **7.8. Are there any safeguards for those who miss the deadline to register/apply for a new residence document?**

Depending on the actual design of the national residence scheme in the host EU state in which you live, there may be a deadline by which you have to register with national authorities or apply for a new residence document to have your new status certified.

A failure to meet the deadline can result in a financial penalty, at worst. It can never result in any loss of your rights under the Withdrawal Agreement or the ability to apply for a new residence document belatedly.

### **7.9. What is the deadline for family members who arrive after the end of the transition period when applying for the new residence document?**

The Withdrawal Agreement ensures that they will have at least three months after their arrival to apply for a new residence document.

### **7.10. I already have a document certifying permanent residence issued to me by the national authorities in 2014. I sincerely hope that persons like me can stay without any hassle.**

You may still have to make an application to the national authorities under the national residence scheme to have your new permanent residence status registered/certified. But, as you have already obtained permanent residence in the host EU state under existing [EU law on free movement](#), the administrative procedure should be fairly simple.

### **7.11. I was eligible for permanent residence in the host EU state under EU law but I never applied for a document certifying permanent residence. Could this affect me?**

It does not affect you but you may have to make an application to the national authorities under the national residence scheme to have your new permanent residence status registered/certified.



**7.12. Looking at how EU free movement law was applied in the host EU state, I am concerned that the new system is not guaranteed to work in practice in all cases.**

The administrative systems established under the national residence schemes are based on the well-tested schemes applicable for mobile EU citizens.

To offer concrete safeguards to citizens, the Withdrawal Agreement makes sure that all the procedural safeguards of [the Free Movement Directive](#) apply. This means the right to appeal any decision restricting residence rights. It also means that the citizen in question maintains all rights under the Withdrawal Agreement, until a final decision has been taken, i.e. including final judicial decision after an appeal procedure.

**7.13. I applied for an EU registration certificate in the host EU state in 2018. I compiled almost one hundred pages of documents to make sure that the national authorities understood that I met the conditions. I do not want to have to undergo the same again. Is it different under the national residence scheme?**

This depends on the actual design of the national residence scheme in the host EU state. In any event, the procedures should not be more burdensome than under [EU law on free movement](#).

**7.14. Some immigration applications are very costly in the host EU state. How much do the national authorities charge United Kingdom nationals and their family members applying for a new residence document?**

The new residence document granted under the national residence scheme is issued either free of charge or for a charge not exceeding that imposed on nationals of the host EU state for the issuing of similar documents.

**7.15. I have heard that the UK issues residence documents under the Withdrawal Agreement in a digital form. Is the host EU state doing the same?**

Residence documents under the Withdrawal Agreement may be issued as a physical document (*for example, as a plastic card with security features*) or in a digital form.

The UK grants a digital residence status under the EU Settlement Scheme. EU Member States issue the new residence document in a physical form that is identical for all Member States.



**7.16. Before the end of the transition period, United Kingdom nationals were able to appeal against decisions of the national authorities. Is this right still protected?**

Yes, this right is fully replicated in the Withdrawal Agreement.

**7.17. What happens to those United Kingdom nationals whose applications for a new residence document are refused by the national authorities? Can they stay while their appeal is pending?**

United Kingdom nationals whose applications for a new residence document after the end of the transition period are refused can seek judicial redress against the refusal. They keep their right of residence until the decision – *or appeal* – becomes final. As is the case under [EU law on free movement](#), the national authorities may in exceptional cases (*such as when the decision is based on imperative grounds of public security*) remove rejected applicants even before a final judgment has been handed down. If they do so, they must not prevent United Kingdom nationals from submitting their defence in person except in exceptional circumstances when their presence in the host EU state may cause serious troubles to public policy or public security.



## **8. Professional qualifications**

### **□ Professional qualifications under current EU law**

Rules on professional qualifications in the Withdrawal Agreement are specifically tailored to the context of the United Kingdom's withdrawal and its impact on past and pending recognition decisions. To better understand the rules under the Withdrawal Agreement, it is necessary to describe how the rules work under current EU law for EU citizens and how are they regulated in the EU-UK Trade and Cooperation Agreement.

Unless protected by the Withdrawal Agreement, UK nationals seeking recognition of their qualification would fall under the EU-UK Trade and Cooperation Agreement. This means that, irrespective of where they acquired their qualifications, their qualifications would need to be recognised in the relevant Member State under existing domestic rules governing the qualifications of third-country nationals.

The EU-UK Trade and Cooperation Agreement makes it possible for the EU and the United Kingdom to agree on additional arrangements for the mutual recognition of certain professional qualifications for specific professions.

Below, this document focuses on the rights and entitlements under the Withdrawal Agreement.

### **8.1. What are professional qualifications?**

Professional qualifications are specific qualification requirements that a person needs to possess by law in order to access or pursue a regulated profession or to engage in regulated activities in a given country.

Qualification requirements vary between professions. They may also vary for the same profession or activities between countries.

Professional qualifications may be particular studies, trainings and/or professional experience. They may be evidenced through, for instance, relevant diplomas, certificates as well as attestations of competence and/or professional experience.

### **8.2. What happens to professional qualifications obtained in one Member State if you settle in another Member State that regulates your profession?**

Under EU law, EU citizens have the right to pursue a regulated profession, on an employed or self-employed basis, in a Member State other than the one in which they obtained their qualification. In that context, EU citizens have specific procedural and substantive rights on



recognition of their qualifications by an EU country different from the one where they have acquired their qualifications (see [Directive 2005/36/EC](#)). Depending on the profession, different recognition regimes may apply, ranging from an automatic recognition regime to the one where comparisons between qualifications are made and compensation measures may be applied under certain conditions.

The Member State where recognition is sought must issue a relevant decision within strict deadlines. Such decisions are subject to appeal under national law, they cannot be arbitrary and have to be fully compliant with EU law.

EU citizens whose qualifications have thus been recognised are able to access the profession in the host Member State and to pursue it under the same conditions as the nationals of that State (see Article 4 of [Directive 2005/36/EC](#)).

Finally, specific rules may be applicable to professions, such as lawyers and statutory auditors.

This EU regime does not apply to recognition applications made by non-EU nationals, unless specific arrangements provide for such assimilation, e.g. arrangements applicable to EEA and Swiss nationals.

Qualifications acquired by EU citizens in non-EU countries are only covered by the EU regime if they are assimilated to EU qualifications. This is done after three years of exercise in the Member State, which first recognised them.

### **8.3. What happens if you wish to provide a service temporarily or occasionally in another Member State regulating your profession?**

EU law complements the rights mentioned in section 8.2 above with specific rules facilitating the temporary or occasional provision of services by EU nationals in Member States other than the one where they are professionally established.

For most professions, EU law only allows the Member State where the service is to be provided to request a prior declaration by the professionals concerned. The declaration may be submitted once a year (*or once every 18 months in the case of the European professional card*) and could be accompanied by a limited number of documents.

No prior check of qualifications by the Member State where the service is to be provided is permitted, with the notable exception of professions involving risks of serious damage to the health or safety of the recipient of the services. Any such check should not go beyond what is necessary for this specific purpose.



Finally, for professions such as doctors, nurses, dental practitioners, veterinary surgeons, midwives, pharmacists and architects etc., which are covered by an automatic recognition regime, no prior check of qualifications may be imposed. Only a prior annual declaration can be required.

This EU regime does not apply to non-EU nationals seeking temporary or occasional service provision in a Member State.

EU citizens with qualifications acquired in non-EU countries can only be covered by this regime if their qualifications are assimilated to EU qualifications (see above under 8.3).

### □ Professional qualifications under the Withdrawal Agreement

#### **8.4. How has the UK's withdrawal from the EU affected this situation?**

After the end of the transition period, UK nationals, as third country nationals, may no longer rely on the EU regime on recognition of professional qualifications and the EU legal regime explained above no longer applies to professionals moving in and from the UK, unless and only to the extent they can rely on certain limited rights provided for by the Withdrawal Agreement.

As for the rest, all issues linked to the recognition of the qualifications of United Kingdom nationals in the EU and the possibility to provide professional services there are to be dealt with under the national rules and conditions of each EU Member State, without the benefit of the rights provided by EU law.

Nonetheless, relevant national rules and policies of Member States have to be compliant with the general obligations and limitations undertaken by the EU and its Member States in the Trade and Cooperation Agreement entered into with the UK. In addition, to the extent that the EU and the UK might enter into mutual recognition arrangements for specific professions under the procedure provided for in the Agreement, any UK nationals concerned would be able to invoke their corresponding rights under such future arrangements when seeking recognition of their qualifications in the EU.

#### **8.5. What rights does the Withdrawal Agreement provide?**

Under the Withdrawal Agreement, if a UK national resides in an EU Member State and has obtained the recognition of his/her professional qualifications in that State before the end of the transition period, the Withdrawal Agreement ensures the continued validity and effectiveness of the recognition decision. In addition, it ensures the corresponding right of the professional to practice the relevant profession in that State under the same conditions as its nationals.

The same applies to professionals who, at the end of the transition period, are frontier workers and may have obtained recognition of their qualifications and a licence to practice in the State in which they are frontier workers.





The Withdrawal Agreement also ensures that handling of any pending applications for recognition submitted by those persons prior to the end of transition period are completed in accordance with EU rules.

On the contrary, the Withdrawal Agreement does not guarantee UK professionals established in any EU Member State the right to rely on EU law in order to obtain recognition of their qualifications after the end of the transition period in any EU Member State, even in the Member State they reside or work as frontier workers. Such additional recognitions may take place under the rules and policies of the States in question.

Similarly, the Withdrawal Agreement does not guarantee UK professionals established in any EU Member State the right to rely on EU law in order to provide temporary or occasional services in any other Member State.

The Withdrawal Agreement does not protect the validity in the rest of the EU of licences delivered by national authorities in some sectors, in particular the transport sector, which have pan-European value within the internal market, or the validity in the UK of such types of licences delivered by authorities of the EU Member States.

**8.6. I am a British architect who had been living and working in an EU state already before the end of the transition period. Can I continue to practise my profession?**

Yes. If you have had a professional qualification recognised in the EU State you reside and you comply with all relevant practice requirements, you can continue to rely on this recognition decision for the purpose of carrying out your professional activities there.

**8.7. I am a British physiotherapist living in one Member State and working as physiotherapist in another Member State where I have my qualifications recognised before the end of the transition period. Will I be able to benefit from EU law and continue providing my services as a frontier worker?**

Yes. If you have had a professional qualification recognised in the country where you currently reside or, for frontier workers, where you work, you will be able to continue to rely on the recognition decision there for the purpose of carrying out your professional activities.

**8.8. I am a British veterinary surgeon living and working as such in an EU Member State. Can I continue relying on EU law in order to provide temporary or occasional services in other EU Member States as well?**



No. You will not be able to rely on EU law to provide, or continue providing, such services. The possibility to provide such services and the particular conditions for doing so will be determined by the law and policies of the other EU Member States concerned.

**8.9. I have applied for recognition of my qualifications in the host EU state. I did not receive a decision before the end of the transition period. What happens now?**

If you have applied for recognition before the end of the transition period, the procedure for the recognition of those qualifications should be completed under the EU rules applicable before the end of the transition period. This should guarantee the smooth completion of the procedure and a positive outcome, so long as your request was justified.

**8.10. I am an English solicitor resident in an EU State and registered with the local Bar before the end of the transition period. What is my situation now?**

Your situation will depend on the type of registration you have.

If you have registered under your home (*England and Wales, Scotland or Northern Ireland*) title, you will no longer be able to rely on EU law and the specific EU law Directives to provide your services in the EU, including in the State of your registration.

However, you might be able to rely on the provisions of the Trade and Cooperation Agreement applicable to lawyers, taking into account any specific reservations the Member State of residence might have made. Overall, your situation will depend on the rules the specific EU state applies in relation to establishment and services provided by non-EU lawyers in its territory and its commitments in the Trade and Cooperation Agreement.

If, on the contrary, you have obtained the local title (*e.g., under the Professional Qualifications Directive or the more specific rules of the Lawyers Establishment Directive*) and you reside or work as a frontier worker there at the end of the transition period, your registration, membership and practice rights is guaranteed in that State. Nonetheless, you will no longer be able to rely on the above Directives as regards your presence and provision of services in another EU Member State.



## 9. Social security

Rules on social security in the Withdrawal Agreement are specifically tailored to the context of the United Kingdom's withdrawal and its impact on social security rights accrued during the United Kingdom's membership to the EU, or rights to be accrued in the future by beneficiaries of the Withdrawal Agreement.

Unless protected already by the Withdrawal Agreement, UK nationals temporarily staying in, moving to or working in the EU after 1 January 2021 can enjoy certain social security rights under the EU-UK Trade and Cooperation Agreement.

This document focuses mainly on the social security rights under the Withdrawal Agreement.

### **9.1. I work in the host EU state and have residence status under the national residence scheme. What happens to my social security cover?**

When it comes to social security rules, the objective of the Withdrawal Agreement is to ensure that everything is as before. [The EU rules](#) continue to apply to persons protected by the Withdrawal Agreement. This means, for example, that:

- the host EU state continues to be competent for your **social security benefits** – you pay contributions in the host EU state and are entitled to benefits without any discrimination;
- you have **access to healthcare in the host EU state** under the same conditions as its own nationals;
- **if you go on holidays in the European Union**, you can use your European Health Insurance Card issued by the host EU state;
- **if your children reside in the United Kingdom** and you are entitled to family benefits in the host EU state, you continue to receive them without any reduction, as if the children resided with you in the host EU state (see <http://ec.europa.eu/social/main.jsp?catId=863&langId=en> for more details);
- **if you have children after the end of the transition period** and you are entitled to family benefits under the national legislation of the host EU state, you receive the benefits even if the children reside in the United Kingdom (for more details see <http://ec.europa.eu/social/main.jsp?catId=863&langId=en>);
- **if you become unemployed**, you are entitled to unemployment benefits and you are able to export these benefits for the period of time permitted, to search for a job in another EU Member State or in the United Kingdom (for more details, see <http://ec.europa.eu/social/main.jsp?catId=862&langId=en>);



- **when you retire**, you are entitled to a pension from the host EU state under the conditions provided in national legislation:
  - if you do not have enough periods of insurance in order to be entitled to a pension, the host EU state will take into consideration the periods you completed in EU Member States and the UK to the extent necessary;
  - if you decide to go back to the United Kingdom:
    - you will continue to receive the pension without any reduction;
    - the responsibility for paying for your healthcare cover will be determined depending on any other pensions you receive and your residence;

For more details, see <http://ec.europa.eu/social/main.jsp?catId=860&langId=en>;

- **if your survivors are entitled to survivors' benefits**, they are able to ask and receive these benefits without any reduction even if they reside in the United Kingdom.

## **9.2. For how long can the Withdrawal Agreement protect me?**

You are protected for as long as you remain without interruption in a situation that is linked to the United Kingdom and any Member State.

For example: as an United Kingdom national, residing in Poland and working there for a Polish employer at the end of the transition period, you continue to be covered by the Withdrawal Agreement if a 'cross-border link' still exists.

This 'cross-border link' between the UK and an EU Member State exists for as long as you continue residing in Poland and working there for a Polish employer.

It can also continue to exist when your situation changes – you are protected provided that you continue to have a 'cross-border link' with a Member State. So, you are still covered if, for example:

- you continue working for the Polish employer and take an additional job in Germany;
- you continue working for the Polish employer, but move your residence to Germany;
- you cease to work for the Polish employer and start to work in Germany, while continuing to reside in Poland;
- your employment contract ends and you conclude another one with an German employer – but the work continues to be performed in Poland;



- you become unemployed without receiving unemployment benefits and continue to reside in Poland;
- you become unemployed, receive unemployment benefits and export these benefits to the UK trying to search for a job there for the period of time permitted (see <http://ec.europa.eu/social/main.jsp?catId=862&langId=en> for details);
- after having searched unsuccessfully for work in the United Kingdom for the permitted period, you immediately come back to Poland and continue to search for a job there;
- when your employment contract ends and you become inactive while waiting to reach the retirement age and continuing to reside in Poland; ○ you retire in Poland;

However, you will no longer be covered by the full social security coordination rules if your employment contract ends and you change your residence to the United Kingdom. In that case, the Withdrawal Agreement makes sure that your past periods of insurance are not lost. When you fulfil the conditions under national legislation (for instance, you reach the retirement age), you will be able to claim the benefits based on these periods in Poland.

Please note that if you have acquired a permanent right of residence in Poland before moving back to the United Kingdom and you return to Poland before that right is lost, you will still benefit there from the full social security protection provided by the Withdrawal Agreement.

### **9.3. I reside in the United Kingdom and work in Italy. Am I still covered by the social security coordination rules?**

Yes, for as long as you continue to be in a situation linked to a Member State (*for more details see [the answer to question 9.1. on social security](#)*).

As long as you continue working in Italy, Italy continues to be competent for your social security cover, meaning for example:

- you have to pay Italian **social security** contributions and you are entitled to Italian benefits without any discrimination;
- you have **access to healthcare cover** in the United Kingdom, where you reside, at the expense of Italy;
- **if you go on holidays in the European Union**, you can use your Italian European Health Insurance Card;



- **if your children reside in the United Kingdom** and you are entitled to family benefits, you continue to receive them without any reduction, as if the children resided with you in Italy (see <http://ec.europa.eu/social/main.jsp?catId=863&langId=en> for more details);
- **if you have children after the end of the transition period**, and you are entitled to family benefits under Italian legislation, you receive them even if the children reside in the United Kingdom; for more details on the rules applicable (see <http://ec.europa.eu/social/main.jsp?catId=863&langId=en> for more details);
- **if you become unemployed**, you are protected by the social security coordination rules (for more details see <http://ec.europa.eu/social/main.jsp?catId=862&langId=en>);
- **when you retire**, you will be entitled to a Italian pension under the conditions provided in Italian legislation:
  - if you do not have enough periods of insurance in order to be entitled to a pension in Italy, Italy will take into consideration the periods you completed in other EU Member States and in the United Kingdom to the extent necessary;
  - you will receive the Italian pension without any reduction even if you reside in the United Kingdom; ○ the responsibility for paying for your healthcare cover will be determined depending on any other pensions you receive and your residence;

For details, see <http://ec.europa.eu/social/main.jsp?catId=860&langId=en>;

- **if your survivors are entitled to Italian survivors' benefits**, they can receive these benefits without any reduction even if they reside in the United Kingdom.

#### **9.4. I work both in Bulgaria and in the United Kingdom. Am I still covered by the social security coordination rules?**

Yes, for as long as you continue to be in a situation linked to an EU Member State (*for more details see [the answer to question 9.1. on social security](#)*).

You continue to be subject to only one social security legislation at a time. This legislation is determined depending on the work you perform and your residence (*for more details see <http://ec.europa.eu/social/main.jsp?catId=851&langId=en>*).

#### **9.5. I work as a UK civil servant in Cyprus. Am I still covered by the social security coordination rules?**

Yes, for as long as you continue to be in a situation linked an EU Member State (*for more details see [the answer to question 9.1.on social security](#)*).



The United Kingdom continues to be competent for your social security cover (see <http://ec.europa.eu/social/main.jsp?catId=851&langId=en> for more details).

**9.6. I work and reside in the United Kingdom. I am on holidays in Czechia at the end of the transition period. Am I still covered by the European Health Insurance Card?**

Yes, for your whole holiday period. You may use your European Health Insurance Card in Czechia both if you already receive the healthcare cover necessary during your holiday before the end of the transition period and if the need for healthcare appears after the end of the transition period.

**9.7. I study in Greece since 2019. Can I use my European Health Insurance Card even if my period of studies goes beyond the end of the transition period?**

Yes, you can use your European Health Insurance Card for the entire duration of your studies in Italy.

**9.8. I work and reside in the United Kingdom. I began a course of special healthcare treatment in Croatia before the end of the transition period. Can I continue receiving my treatment after the end of the transition period?**

Yes. The Withdrawal Agreement ensures that persons who already requested authorisation to receive planned healthcare treatment in Croatia before the end of the transition period can continue to follow the treatment.

**9.9. I work and reside in Spain. I will soon reach my retirement age. What will happen with my UK and Spanish pension rights?**

Nothing will happen to your UK and Spanish pension and everything will be as before the end of the transition period. You will be entitled to your pension under the conditions provided in national legislation, taking into account periods completed in the United Kingdom and in EU Member States to the extent necessary. The amount will be calculated according to the same rules and you can even have your UK and Spanish pension exported and uprated wherever you decide to settle in the UK or any EU Member State.

**9.10. I have retired and now receive a pension from both the UK and Slovakia, where I used to work before. What happens to my pension?**



Nothing will happen to your pension. You will continue receiving a pension both from the UK and Slovakia as you were before. Your UK pension will continue to be uprated as before.

**9.11. In the past, I worked for 12 years in Lithuania. I have moved and now work in the United Kingdom. Once I retire (around 2035), what will happen with the periods of work – and insurance – in the UK and Lithuania?**

Your periods of work will still count and once you retire, you will receive your Lithuanian pension (*or, rather, its part corresponding to the 12 years of employment*) and your UK pension (*the part corresponding to the number of years you have worked in the United Kingdom*) under the same conditions that apply currently in the EU.

**9.12. I worked all my life in Estonia and have now retired in the United Kingdom. I am worried that my Estonian pension will be reduced because I reside outside the EU.**

The Withdrawal Agreement makes it clear that social security benefits, such as old age pension, must not be subject to any reduction, even if the pensioner resides in the United Kingdom and not in an EU Member State.

**9.13. Should I decide to leave the host EU State in the future, will I be able to take my social security benefits with me?**

If you are protected by the Withdrawal Agreement, all relevant social security benefits will continue to be exportable to other EU states, under the same conditions as under the [EU rules](#). If you return to the United Kingdom and you no longer work in a Member State, you will only be able to export certain benefits. This notably includes any pensions which you are entitled to due to working in a Member State. Once you become a pensioner, you might also be able to export sickness benefits in cash, provided that a Member State is responsible for paying for these in your case.

**9.14. After working all my life in the United Kingdom, I have retired to live in Germany. Before the end of the transition period, I was able to get healthcare in a local hospital without any hassle. Has this changed?**

There is no change after the end of the transition period. The United Kingdom will continue to reimburse the costs of your future healthcare in Germany, as it did in the past.





**9.15. I work and reside in the United Kingdom. However, my spouse and children reside in Poland. As my family members, they were entitled to healthcare at the expense of the United Kingdom and I received UK family benefits before the end of the transition period. Has this changed?**

Provided that these entitlements already existed at the end of the transition period, there is no change. Your family members will continue to receive healthcare in Poland at the expense of the United Kingdom and you will continue to receive UK family benefits despite the fact that your children reside in Poland.

**9.16. My UK employer posted me to Germany in 2019. I am still insured in the United Kingdom and my Portable Document A1 does not expire until September 2021. Does this mean it continues to be valid in 2021?**

The Withdrawal Agreement does not cover the posting of workers in the framework of provision of services. Therefore, in such a case your Portable Document A1 is no longer valid as of 1 January 2021. As of that date, in such situations, the provisions on posting in the Protocol on Social Security Coordination, which is part of the EU-UK Trade and Cooperation Agreement, apply, including social security coordination rules that also apply to service suppliers.

Portable Documents A1 which are issued for other reasons, for example to someone on a training course in Germany or for persons who work in Germany and the United Kingdom at the same time continue to be valid after 1 January 2021 pursuant to the Withdrawal Agreement.

**9.17. I am self-employed and I work both in the UK and in Portugal. I live in the UK but I am insured in Portugal. I have a Portable Document A1 issued by Portugal as well as a Portable Document S1 that I use to access healthcare in the UK at the expense of France. Will these documents remain valid and can I renew them once they expire?**

As you are in a cross-border situation involving the UK and a Member State, the Withdrawal Agreement protects you. EU rules on social security coordination therefore continue to apply to you and these documents remain valid after 31 December 2020. This includes your Portable Document A1 as it has not been issued in the context of a posting for the provision of a service. As long as you remain in this cross-border situation, your documents can be renewed under the same rules that were applicable before 1 January 2021.



**9.18. My parents are UK nationals who moved to Italy in 1990 and now have a new residence status under the Withdrawal Agreement. I was born in Italy 19 years ago (so I am an Italian/British dual national from birth) and have lived in the Netherlands all my life. I started a job two years ago. My parents are thinking of moving back to the UK in the future. If I move to the UK too, will I be able to take my social security benefits with me?**

Although you have dual nationality, you have spent your whole life living in Italy and have not exercised your free movement rights before 1 January 2021. Therefore, the Withdrawal Agreement does not protect you. This means that if you move to the United Kingdom, you will not be able to take your acquired social security rights with you based on the Withdrawal Agreement. This is without prejudice to any rights you may have under the Protocol on Social Security Coordination, which is part of the EU-UK Trade and Cooperation Agreement.



## **10. Useful links**

### ***Withdrawal Agreement***

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02020W/TXT-20200613>

### ***EU-UK Trade and Cooperation Agreement***

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2020.444.01.0014.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2020.444.01.0014.01.ENG)

### ***EU Treaties***

[https://eur-lex.europa.eu/eli/treaty/tfeu\\_2012/oj](https://eur-lex.europa.eu/eli/treaty/tfeu_2012/oj)

### ***EU guidance note on citizens' rights part of the Withdrawal Agreement***

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XC0520\(05\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XC0520(05))

### ***Advice about residence rights in the EU***

[https://europa.eu/youreurope/citizens/residence/brexit-residence-rights/uk-nationals-living-in-eu/index\\_en.htm](https://europa.eu/youreurope/citizens/residence/brexit-residence-rights/uk-nationals-living-in-eu/index_en.htm)

<https://www.gov.uk/guidance/living-in-europe>

### ***Current EU rules on residence formalities for EU citizens and their family members***

[https://europa.eu/youreurope/citizens/residence/documents-formalities/eu-family-membersregistration/index\\_en.htm](https://europa.eu/youreurope/citizens/residence/documents-formalities/eu-family-membersregistration/index_en.htm)

[https://europa.eu/youreurope/citizens/residence/documents-formalities/non-eu-familymembers-residence-card/index\\_en.htm](https://europa.eu/youreurope/citizens/residence/documents-formalities/non-eu-familymembers-residence-card/index_en.htm)

Directive 2004/38/EC ('the Free Movement Directive')

<https://eur-lex.europa.eu/eli/dir/2004/38/>

Regulation (EU) No 492/2011

<https://eur-lex.europa.eu/eli/reg/2011/492/>

### ***Current EU rules on freedom of movement for professionals***

[https://europa.eu/youreurope/citizens/work/professional-qualifications/index\\_en.htm](https://europa.eu/youreurope/citizens/work/professional-qualifications/index_en.htm)

[https://ec.europa.eu/growth/single-market/services/free-movement-professionals\\_en](https://ec.europa.eu/growth/single-market/services/free-movement-professionals_en)

Directive 2005/36/EC ('the Professional Qualifications Directive')

<https://eur-lex.europa.eu/eli/dir/2005/36/>

### ***Current EU rules on co-ordination of social security schemes***

<https://europa.eu/youreurope/citizens/health> <https://europa.eu/youreurope/citizens/work>

<http://ec.europa.eu/social/main.jsp?langId=en&catId=849>



*Regulation (EC) No 883/2004*

<https://eur-lex.europa.eu/eli/reg/2004/883/>

*Regulation (EC) No 987/2009*

<http://data.europa.eu/eli/reg/2009/987/2018-01-01>