



BREXIT UPDATE: Next Steps for Your Business

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Q The webinar was specified for UK nationals to go and work in EU. Can I conclude that, for EU nationals, nothing changes until 31 December 2020?

In the event of a no-deal Brexit, the UK will make a distinction between two groups:

- **EU/EFTA nationals arriving prior to Brexit:** These individuals will be able to continue to work and reside in the UK until 31 December 2020 without any immigration formalities. If they want to stay beyond 31 December 2020, they must apply for settled status (a special permanent residence permit) where they have been in the UK for five years before 31 December 2020. Those not yet reaching the five years prior to 31 December 2020 can apply for pre-settled status and then change status to settled after five years in the UK.
- **EU/EFTA nationals arriving after Brexit:** These individuals will also be able to work and reside in the UK until 31 December 2020 without any immigration formalities. If they want to stay beyond 31 December 2020, they can apply for European Temporary Leave to Remain (Euro TLR), which will be valid for three years. If they desire to stay beyond these three years, they will need to apply for a normal permit under the new immigration scheme that is scheduled to be launched in January 2021 (similar to requirements for U.S. nationals).

Q Your advice is to make sure staff working in EU states are registered, should they be required to by local legislation, ahead of Brexit day. Can you confirm if this applies to staff on commuter contracts as well as long and short-term assignments?

Not all countries have announced specific measures for cross-border workers. Therefore, our general advice is as follows:

- For weekly commuters, we do advise to also register, just as short and long-term assignees, if possible. This is the easiest way to ensure protection of their status, per the specific country's regulations.
- For daily commuters, this will not be possible. For these individuals we advise you to reach out to your immigration provider as soon as possible to check if any protection exists for cross-border workers in the specific host country and for the specific scenario. We would be happy to assist with such assessments.

Q What is the process and lead period to apply for an EU ICT permit?

Unfortunately, there is not one answer for this. The EU ICT permit is based on an EU Directive. This means that each country has been required to implement it into their national legislation, and each country has done that somewhat differently. Because of this, the application process and processing times vary widely. For example, in the Netherlands you can obtain an EU ICT Permit within a few weeks (*if registered as a Recognized Sponsor with the immigration authorities*), while in Germany, it can take up to two months from date of filing. Also

the conditions for the Intra-EU Mobility vary. As an example, for short-term mobility (*under 90 days*), some countries require only a notification to be filed prior to the work starting in the second host country, some do not require a notification at all, while others require notice to be filed at least 20 days in advance.

Q You explained that after a no-deal Brexit (or after the transition period in case of a Brexit with a deal), British business travelers will be restricted to 90 days stay per 180 days. When does this 180-day period start?

The 180-day period is a rolling period. This means that on any day you will need to look back to the past 180 days and verify if your stay on this day will bring you over the allowed 90 days in this period. This is why it will be very important for frequent travelers to the Schengen area to track their stays in the Schengen area (*including stays for personal reasons, i.e., vacations*).

In the event of a no-deal Brexit, the UK will make a distinction between two groups: EU/EFTA nationals arriving before Brexit, and EU/EFTA nationals arriving after Brexit.

The EU has confirmed that as long as the UK reciprocates, UK nationals will not require a visa for stays up to 90 days out of 180 days. They will be treated similarly to U.S. nationals.

Q Is this allowed 90 days per employee or per legal entity?

This is a personal restriction, not a corporate one. So it is counted per person. Be aware, personal visits also count toward the allowed 90 days.

Q Will any existing valid Schengen visas continue to be valid until expiry date of the visa ?

Brexit has no influence on the validity of Schengen visas for third-country nationals for business or tourism purposes. However, most countries have not provided clarity on the validity of any *Van der Elst* visas after a no-deal Brexit. These may lose their validity in some countries in case of a no-deal Brexit. We advise you to reach out to your immigration provider if you have anyone on *Van der Elst* status in the EU who will be there after a potential no-deal Brexit on 31 October 2019. You need to check if there is any confirmation to be obtained from the authorities on their specific status. Newland Chase would be happy to assist with this.

Q Will the business travel requirements be available?

If the UK leaves the EU without a Withdrawal Agreement, the following situation is expected:

- UK nationals wishing to visit the EU for up to 90 days will be able to do so without a visa, provided that the UK reciprocates for EU nationals.
- Even falling under the visa-free regime, starting 1 January 2021, UK nationals will need to apply for **ETIAS travel authorization** prior to a trip to the EU.
- UK nationals wishing to enter an EU member state for stays of more than 90 days will require a long-stay visa or residence permit for that country.
- UK nationals wishing to enter an EU member state for work will need to apply for work authorization, like other third-country nationals. They may qualify

for short-term work permit exemptions where available.

- UK nationals traveling to the Schengen area (not Ireland, Bulgaria, Croatia, Cyprus or Romania) will have to have at least six months validity on their passports from the date of entry. This applies to both adult and child passports. Any extra months over ten years on a passport (if it was renewed before expiry) may not count towards the six months that should be remaining for travel to Schengen countries.
- After Brexit, a residence status in one member state will not provide work or residence rights in any other member state.

Q Is there any limitation on billable work within that 90/180 days?

The 90 out of 180 days of allowed stay only allows business and tourism activities. Billable work will in most cases require work authorization, unless a specific work permit exemption applies in the specific country where the work will be performed. We would advise you to reach out to your immigration provider for case-specific assessments of the requirements. Newland Chase would be happy to assist you with this.

Q Will UK nationals require a visa after a no-deal Brexit or can they still travel with just their passports?

The EU has confirmed that as long as the UK reciprocates, UK nationals will not require a visa for stays up to 90 days out of 180 days. They will be treated similarly to U.S. nationals.

Q Will UK nationals after a no-deal Brexit be subject to passport controls and get stamps in their passports?

Yes. UK nationals will need to have their passports checked at time of entry to and departure from the Schengen area. They will receive entry and exit stamps in their passport.

Q Does the A1 also apply to “white-collar” workers?

Yes. Whether or not an A1 is currently required is independent of the type of work – applicable to both blue-collar and white-collar work.

Q What is the situation of EU citizens (i.e., Polish) hired in the UK with pre-settled status? Can they travel and work in EU/EEA (i.e., Norway) without any challenges?

EU nationals will still be able to work in other EU and EEA countries without work authorization, even if employed in the UK. That said, the fact that they are employed in the UK may have an impact on whether or not a *Posted Worker Notification* would still be required. About half of the EU countries do not require this to be filed for postings from outside of the EU – which will include the UK after a no-deal Brexit (or after the transition period in case of a Brexit with a deal). Note that even if a *Posted Worker Notification* is not required in a certain country, there may still be certain other working condition requirements and/or record-keeping duties based on other regulations. We would advise to verify this with an employment lawyer in that country.

Q If I have a business trip to the UK from the EU (e.g., the Netherlands), do I need a UK visa?

Based on current planned regulations, EU nationals will not require a visa to enter the UK for business or tourism purposes after 31 December 2020. Until this date, entry is even allowed without a visa for work activities.

Q Will the UK start issuing exit stamps after Brexit?

At the least, not immediately. Initially EU nationals will still be able to travel with their national EU identity cards. This will be phased out sometime in 2020. At that time passport stamping may be introduced.

Have additional questions?

Contact us today to learn how we can support your global business goals.



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