



Brexit Preparedness seminar on citizens, social security coordination and border controls

Council Working Party

(Article 50 Format)

27 November 2018

Citizens - Free movement of EU27 citizens in United Kingdom and of UK nationals in EU27

In a no deal scenario, situation as of the withdrawal date:

- EU27 citizens in UK: Depends on UK legislation
- UK nationals in EU27:
 - If residing in EU27: Lose their right to free movement under Article 21 TFEU and Directive 2004/38/EC => third country national status
 - If family member of EU citizen residing in home Member State: Idem
 - If family member of EU citizen where the EU citizen exercises the right of free movement: Derived right to reside => application for residence card

Key sectoral issues - UK nationals residing in EU27 MS on withdrawal date

- Acquisition (under national law) of residence and work permits
- Calculation of residence periods for the acquisition of long-term residence status
- Applying for permits
- Administrative capacity

What is being done to address these issues?

Key Preparedness actions taken by:

Commission:

- **Communication of 13 November 2018 – A Contingency Action Plan**

Commission considers that periods of legal residence before withdrawal in the same Member State count for acquisition of long-term resident status under the conditions of Directive 2003/109/EC

National administrations are recommended to accept the submission of applications for residence permits in advance of the withdrawal date of the UK

- Awareness-raising of issues vis-à-vis stakeholders, citizens' associations

What additional action / communication is required

EU level => reinforcing coordination with EU27 Member States. Commission organises technical expert seminar (EU27) on 20 December.

Member States =>

- be ready to implement contingency actions (e.g. issuance of documents; having adequate administrative and human resources)*
- reach out to UK nationals resident*
- cooperate with UK consular authorities*

Stakeholders, i.e. citizens' associations => reach out to their constituents

Key sectoral issues – Short term mobility

- Commission proposal of 13 November for revision of the Visa Regulation 539/2001

- Visa-free travel for UK nationals for short term stays (90 days in 180 day period)
- Reciprocity and non-discrimination between EU Member States
- MS to decide if recognised refugees with UK travel documents will also be exempt from visa
- MS to decide if school pupils from UK schools coming on excursions and holding nationalities of countries in Annex I will also be exempt from visa requirement

Key sectoral issues - Borders

- Commission preparedness notice on travelling published on 13 November 2018
- Controls of UK nationals crossing the external border (Schengen Borders Code)
 - Entry conditions and necessary documents – Article 6
 - Systematic checks at the border – Article 8
 - Technical adaptations of infrastructure
 - Dealing with possible delays

What additional action / communication is required - Borders

Member States =>

- make available personnel at border crossing points*
- adapt infrastructure at border crossing points if necessary*
- ensure awareness of border guards on checks to be performed after UK withdrawal*
- notify to the Commission temporary residence documents possibly issued to UK nationals under Art. 39(1)(a) of Schengen Borders Code*
- take UK withdrawal into account when providing for necessary infrastructure for Entry Exit System (EES), European Travel Information and Authorisation System (ETIAS)*

EU level =>

- funding from Internal Security Fund – Borders (in particular for implementation of EES & ETIAS)*

Background and reference information

- *Commission preparedness notice on [travelling](#)*
- *Commission contingency Communication [COM\(2018\) 880 final](#)*
- *Proposal to amend Regulation (EC) 539/2001 (“Visa Regulation”) placing UK on Annex II (Visa-free) [COM \(2018\) 745 final](#)*

EU Social security coordination - Key issues

- In a no-deal scenario, the coordination rules would no longer apply to the United Kingdom.
- This impacts on:
 - Aggregation of periods of insurance, work or residence
 - Assimilation of facts and events
 - Non-discrimination
 - Exportation of benefits to third countries
 - Healthcare coverage for non-residents

What can be done to address these issues (1)

- Discuss common approach at technical expert seminar (EU27) back-to-back to meeting of the Administrative Commission on 20 December
- Need for coordinated EU27 approach, avoiding fragmentation
- Commission ready to provide guidance on aggregation, assimilation and non-discrimination
- Exportation: legally possible for Member States to export to third countries (which UK currently does under national law)
- Member States are not allowed under EU rules to enter into bilateral agreements on social security coordination covering movements before the withdrawal

What can be done to address these issues (2)

- National administrations
 - *complement with national measures, where needed, the EU level solutions*
 - *make use of the existing coordination mechanisms (e.g. via Administrative Commission)*
 - *provide advice and assistance to citizens*
- Citizens
 - *enquire before national administrations on consequences of no-deal*
 - *take steps to alleviate risks (e.g. evidence on past periods)*