



BRIEFING PAPER

Number 8614, 7 July 2019

Brexit: Owning a Second Home in the EU27 after Brexit

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Summary

The consequences of Brexit for UK nationals who do not permanently reside in the EU27, but rather own property or otherwise travel there for personal reasons for extended periods, have received less attention than many other facets of Brexit to date.

This paper compiles responses to a variety of frequently asked questions by MPs on behalf of their constituents who, for example:

- Own or wish to own property in an EU Member State
- Travel to that Member State regularly and stay for extended periods in their property there (eg, several months at a time)
- Rely on European Health Insurance Cards for their healthcare while abroad...

And have asked whether this will be possible still after Brexit.

The Commons Library's briefings should not be considered a substitute for professional legal advice, not least because it is a criminal offence for a person who is neither registered, authorised nor exempt to provide immigration or asylum advice or representation in the course of business. The Library also does not have the expertise to comment in detail on the domestic law of other Member States. Instead, this briefing paper will signpost a variety of sources made available by the UK Government and Member State governments that may help address these kinds of questions.

1. Post-Brexit: Living abroad vs 'staying' abroad

Summary

Brexit creates four distinct categories of UK nationals with regards to presence in the EU:

1. Those who live in an EU Member State *before* Brexit.
2. Those who move to live in an EU Member State *after* Brexit.
3. Those who live in the UK but frequently *stay* in an EU Member State, *before* Brexit.
4. Those who live in the UK but frequently *stay* in an EU Member State, *after* Brexit.

Category 1: UK nationals in this category will have their right to live in that Member State preserved through the November 2018 Withdrawal Agreement, or any alternative agreement reached between the UK and the EU, as the EU considers protection of those rights a precondition for any future trade deal it concludes with the UK.

Category 2: UK nationals in this category are either moving after a designated 'transition' period, or already live in the EU if the UK leaves without a withdrawal agreement. They will be subject to domestic immigration law in the EU Member States (except Ireland).

Category 3: UK nationals currently spending part of the year in an EU Member State can continue to do so under EU law until the end of a 'transition' period or stated 'end date'.

Category 4: UK nationals who wish to spend part of the year in an EU Member State after Brexit will be subject to the Schengen Area rules and domestic immigration law, or any alternative rules set out in a future relationship agreement between the UK and the EU.

1.1 UK Nationals who live abroad (Categories 1-2)

The summary box above sets out how Brexit may affect different categories of UK nationals in EU Member States: depending on their duration of stay, and the time at which they first commence their 'stay' in a Member State, they will fall under different legal regimes.

The draft [Withdrawal Agreement](#), in Part II, covers so-called 'Citizens Rights'. However, the rules in Part II only pertain to those EU and UK nationals who will be *resident* in each other's jurisdictions before the end of the proposed transition period (Category 1).

UK citizens who move to an EU Member State *after* this transition period will not be captured by the Withdrawal Agreement (Category 2). Instead, they will be subject to one of two legal frameworks:

- If the UK and the EU agree a 'future relationship' Treaty that explicitly covers the free movement of people, including residency rights, this new Treaty will set out what the conditions for UK nationals to reside in an EU Member State will be, and vice versa.
- If, [as expected](#), the 'future relationship' Treaty does not attempt to replicate EU law on free movement of people, the UK will be treated as any third country is by the EU Member States – and the rights that UK nationals hold to

become residents of those Member States will be set out in the domestic immigration law of that Member State.

EU representatives have [stated](#) that the EU will not conclude *any* agreement with the UK before first settling citizens' rights, the border between Ireland and Northern Ireland, and the balance of payments the UK owes the EU according to commitments made while a Member State. In this scenario, any agreement concluded following a no-deal Brexit will set out rules similar to the current Part II of the draft Withdrawal Agreement – with a set end date, and a set of rights based on EU citizenship rights applicable to all UK nationals who live in an EU Member State before that end date.

We thus are likely to see at least two separate 'residency' statuses for UK nationals in the EU after Brexit:

- Those covered by a 'citizens rights' agreement.
- Those *not* covered by a 'citizens rights' agreement, and instead subject to either the future relationship agreement or domestic immigration law.

Neither of these scenarios, however, addresses what the effect of Brexit will be on UK nationals who do not *reside* (i.e. live full-time) in an EU Member State – but who spend several months a year there in a property they own. For the sake of clarity, this paper will refer to what these UK nationals do as a **stay abroad** as opposed to residence abroad.

Those **staying abroad** maintain their *residence* (and thus obtain their income, or their pension) in the UK.

1.2 UK Nationals who stay abroad after Brexit (Category 4)

Stays abroad at the moment are covered by EU free movement law in the same way that residence abroad is. The difference lies in what the specific EU requirements are at specific measurement times: anyone **staying** abroad for a period of more than 3 months is, under EU law, technically **resident** abroad at that point, and under Directive 2004/38/EC needs to be able to prove that they are self-sufficient and have sickness insurance if they are not (self-)employed or studying. A requirement to *register* residency in a host Member State is optional under EU law, and not required in the UK – but in practice, most other Member States do ask that anyone staying longer than 3 months register their presence and demonstrate they are working, studying, or self-sufficient.

In practice, however, free movement of persons means that these conditions are not strictly enforced *unless* an EU national has a need for social assistance from their host State authorities. UK national John, who flies to France in order to spend 4 months in his holiday home there, is unlikely to be asked at the Schengen border what his reason for visiting will be – and unless he applies for benefits while in France, his stay will otherwise also not be questioned. Compliance with EU law would require a trip home every three months so as to not be 'resident'

For more information on **residency in the EU** after Brexit, please see the following Commons Library Briefing Papers:

For EU Member States' unilateral measures on citizens' rights: [EU preparations for a no-deal Brexit](#)

In the event of 'no deal' and possibly under a 'future relationship' agreement: [What if there's no Brexit deal?](#)

In the event of a 'citizens rights' agreement: [The UK's EU Withdrawal Agreement](#)

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under EU law, but there are no genuine consequences to *not* making such a trip.

This will change significantly following Brexit, in a similar way that residency in the EU27 will change after a set 'transition' period or cut-off point. Again, two options for a future legal regime are possible:

- The default and no-deal arrangement, whereby travel to the EU27 and to the UK is not covered explicitly by a future relationship agreement, will be that the Schengen border area rules will start applying to UK nationals.
- In the alternative, arrangements on immigration could be addressed in the 'future relationship' agreement.

The 'future relationship' and staying abroad

It is difficult to comment on what a 'future relationship' mobility deal may look like, as those negotiations have not yet commenced, and a new UK government will start those negotiations. Hints about what the current UK government sought to achieve regarding future travel between the EU and the UK can be found in the Political Declaration attached to the draft Withdrawal Agreement:

Noting that the United Kingdom has decided that the principle of free movement of persons between the Union and the United Kingdom will no longer apply, the Parties should establish mobility arrangements, as set out below.

The mobility arrangements will be based on non-discrimination between the Union's Member States and full reciprocity.

In this context, the Parties aim to provide, through their domestic laws, for visa-free travel for short-term visits.

The Parties agree to consider conditions for entry and stay for purposes such as research, study, training and youth exchanges.

The Parties also agree to consider addressing social security coordination in the light of future movement of persons.

In line with their applicable laws, the Parties will explore the possibility to facilitate the crossing of their respective borders for legitimate travel.

Of course, this Political Declaration will cease to inform negotiations if the Withdrawal Agreement is not ratified by the UK, and a future UK government will be free to seek more or less ambitious 'mobility' provisions.

'No Deal' and staying abroad

The alternative to a specific mobility arrangement set out in the Future Relationship will be that the UK and its nationals will become subject to the [Schengen rules](#). If that is the case, the following will start applying to UK nationals who want to travel to any EU Member State except Denmark (which will apply its domestic immigration law) and Ireland (because of the Common Travel Area):

- Within the Schengen area, there are no border controls – any UK national admitted to the Schengen area can travel

freely within it for a period of up to **90 days** out of **180 days**.

- The EU Council of Ministers and European Parliament have [agreed](#) that UK nationals will benefit from a '[visa waiver](#)', meaning they do not need to apply for a Schengen visa in order to enter the Schengen area as a visitor for a period of up to **90 days**. They will however need a passport that is valid for **at least 6 months** following their date of entry if travelling anywhere except Ireland, and will be **asked about the purpose of their visit**. For a short visit, they can be asked to show **an address they will stay at, sufficient funds to cover their stay, an onward/return flight, and links back to the UK**.
- Once operational, they are also 'very likely' to require [ETIAS pre-travel](#) approval to enter the EU. This is a pre-travel security check that requires a form to be filled in and a fee to be paid – but is not a formal 'visa' and does not guarantee entry into the EU.
- Any UK national wishing to **stay** in a Schengen country for more than **90 days** will need to apply for a visa under the **domestic immigration law** of that country. This is separate from a 'Schengen' visa, and the type of visa required for such a 'stay' (not for employment, not for studying and not for 'living') will have specific conditions attached to it relating to, inter alia, **sufficient funds for the stay** and **medical insurance**.

The UK government has prepared limited guidance on this point to date: the specific conditions attached to travel to the EU Member States following Brexit will be dependent in part on EU legislation (which will determine if UK nationals will need a 'Schengen visa' or not) and domestic legislation, which may or may not become UK-specific following Brexit.

For advice as currently available, the UK government's [Foreign Travel Advice](#) page for each relevant Member State sets out what information is known about travel to that country post-Brexit so far, and where more information can be obtained (eg, embassies of those countries in the UK).

If the UK embassies do not have information yet about visa requirements for UK nationals after Brexit, a worthwhile comparison might be what the US embassies for the EU27 (except Ireland) set out as available visas and their requirements. **These may not be identical to the conditions that will be set out for UK nationals wishing to apply for 'long stay' visas after Brexit, but reflect the treatment of the EU27 of long 'stays' for other non-EU nationals at this time.**

To see **US embassy advice on obtaining long-stay visas for US nationals traveling to a specific Member State**, search for

2. Specific questions about 'staying' abroad

2.1 Property

What will happen to property owned by UK nationals in an EU Member State?

The only aspect of EU law that covers property rights is that of non-discrimination: UK nationals who own property in an EU Member State must be able to do so on the same terms as nationals of that Member State.

In the absence of EU law, property rights are addressed by domestic law in the Member States. If there is a distinction between property law as applied to EU nationals and 'foreign' nationals in a Member States' domestic law, the primary change will be that UK nationals will cease being EU nationals for the purposes of that law and will instead be covered by the 'foreign' national rules.

Additionally, all EU Member States have ratified the European Convention on Human Rights (ECHR). The rights to private and family life and property rights are protected by the ECHR.

The Foreign and Commonwealth Office (FCO) operates a portal that contains guidance on [living in any of the EU Member States](#), and each of these guides has a bespoke section on property. The primary advice extended is to have legal representation when purchasing property anywhere abroad (including in the EU). The FCO's 'Living in ...' sites contain some information about English-speaking lawyers who operate in that specific Member State.

2.2 Health Insurance

What happens to our medical insurance after Brexit – will we be covered by the European Health Insurance Card scheme for short visits, or will we need private medical insurance?

Short Visits and EHIC

The UK Government published advice on healthcare in January 2019 for [UK residents visiting the EU/EEA and Switzerland](#). This advice notes that the UK Government has, or is seeking, agreements with countries in the EU/EEA and Switzerland on the continuation of healthcare arrangements for UK nationals after Brexit. However, it also states that "your access to healthcare when visiting the EU and EFTA may change":

"The government has proposed to EU Member States and EFTA states (Norway, Iceland, Liechtenstein and Switzerland) to maintain the existing healthcare arrangements in a no-deal scenario.

This offer will apply until December 2020 with the aim of minimising disruption to healthcare provision for UK nationals and EU and EFTA citizens.

This means the UK government will continue to pay for healthcare costs for current or former UK residents who are living or working

in or visiting the EU. The government wants to work with EU partners to reach such agreements.

But if countries do not agree to extend the existing healthcare arrangements, your access to healthcare when visiting the EU and EFTA may change and become like arrangements in the rest of the world.”

Specifically, on the EHIC scheme, the advice notes that ‘if you have an EHIC issued by the UK, this may not be valid in the event of a no-deal scenario, depending on decisions by and arrangements with individual countries. [Go to the NHS website for the latest information on each country.](#)’

For people with pre-existing health conditions, the government advice is as follows:

If you have a pre-existing health condition, you should buy medical travel insurance before visiting countries in the EU or EFTA. You must tell the insurance company about any health conditions you have, to make sure you can get the cover you need. If you have an EHIC, this may not be valid in the event of a no-deal scenario.

Ask your doctor in the UK for advice before you travel and make plans for how to manage your condition when you are abroad. You should also take your health condition identification or letter saying what medication you are taking.

Similarly, the NHS website [notes](#) that it is advisable to have adequate travel health insurance and accessible funds to cover the cost of any medical treatment abroad and repatriation, as repatriation for medical treatment is not covered by the EHIC.

For more information on work on **post-Brexit reciprocal healthcare schemes**, see the Commons Library Briefing paper on the [Healthcare \(International Agreements\) Bill 2017-19](#).¹ The Government also made a [Written Ministerial Statement](#) on 19 March 2019, updating on reciprocal healthcare plans in the event of no deal.

The British Medical Association (BMA) [provided](#) the following summary of what ‘no deal’ could mean in 2017:

Should there be a failure to agree a withdrawal agreement by March 2019, access to reciprocal healthcare arrangements for UK citizens and residents within the EU, and EU citizens and residents within the UK, would end. This would lead to significant disruption to those individuals’ healthcare arrangements, an increase in costs of insurance, and uncertainty regarding accessing healthcare abroad. Moreover, the NHS would face a drastic increase in demand for services, which could dramatically increase its costs and place greater pressure on doctors and clinical staff.

[...] The impact of the loss of reciprocal care on patients would be significant, especially given the number of beneficiaries that are pensioners living abroad. Evidence given to the House of Commons Health Select Committee has suggested that many of them will be unable to fund private healthcare and so will be

¹ To reflect changes at [Report stage on 12 March 2019](#), the Lords amended the title to the [Healthcare \(European Economic Area and Switzerland Arrangements\) Bill](#). It received Royal Assent on 26 March 2019.

forced to return to the UK.¹² UK citizens travelling within the EEA, and EEA citizens visiting the UK, will also need to purchase their own travel or health insurance should access to reciprocal arrangements be lost. This is a particular concern for those with disabilities or long-term conditions, as the cost of health and travel insurance for those with pre-existing conditions could be prohibitively high.

The UK has some reciprocal healthcare arrangements which pre-date EU membership (see below), but the status of these agreements if no deal is agreed remains unclear. [Evidence](#) given to the Health Select Committee noted that such agreements would not be comprehensive if relied upon as a contingency:

Of course, we have a number of agreements that predate the European Union that we could fall back on, but each of those has different terms and conditions, different eligibilities, different limits and different numbers of people who can be covered.²

Longer Stays

For those staying in a Member State for an extended period (eg, longer than three months), the rules on health insurance that apply to those *living* in that Member State are likely to be relevant. More information on these rules can be found for each Member State on the FCO's '[Living in...](#)' portal.

2.3 Driving in the EU

Can we drive on a UK license and in a UK-registered car in an EU Member State after Brexit?

EU citizens are currently permitted to drive using their existing standard license if it has been issued from countries within the European Economic Area (EU plus Iceland, Norway and Lichtenstein). If the UK exits the EU with a similar deal to that agreed by Theresa May, existing driving license concessions between the EU and the UK will remain in place for the two-year transition period.

The government has published advice on [driving in the EU](#) if there is no deal, noting that anyone wishing to drive in the EU (except Ireland) will need to purchase an **International Driving Permit (IDP)** in addition to their UK driving licence. The Government is seeking to ratify the [Vienna Convention on Road Traffic](#). This would ensure that a traveller with a UK driving licence and IDP would be able to drive lawfully in the EU. According [to the Department for Transport](#), the Government is trying 'reach an agreement with the EU for mutual licence recognition after Brexit. Such a deal is in the interests of both sides and we remain confident of reaching such an agreement.' More information on what IDP will be needed can be found [here](#).

In a 'no deal' scenario, the [Association of British Insurers \(ABI\) has advised](#) that motorists will need to carry a physical Green Card while driving a UK registered vehicle in the EU/EEA. Green Cards are an international certificate of insurance issued by insurance providers in the

² Health Committee, [Brexit and health and social care— people & process](#), (HC640 2016-17), 28 April 2017, para 111

UK, guaranteeing that a motorist has the necessary minimum motor insurance cover for driving in the country being travelled to. Motorists should contact their insurance provider directly to make any necessary arrangements.

2.4 Other

For more information on other questions that are relevant to those **living** or **staying** in an EU Member State after Brexit, see the FCO's [‘Living in...’ portal](#) for the relevant Member State.

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