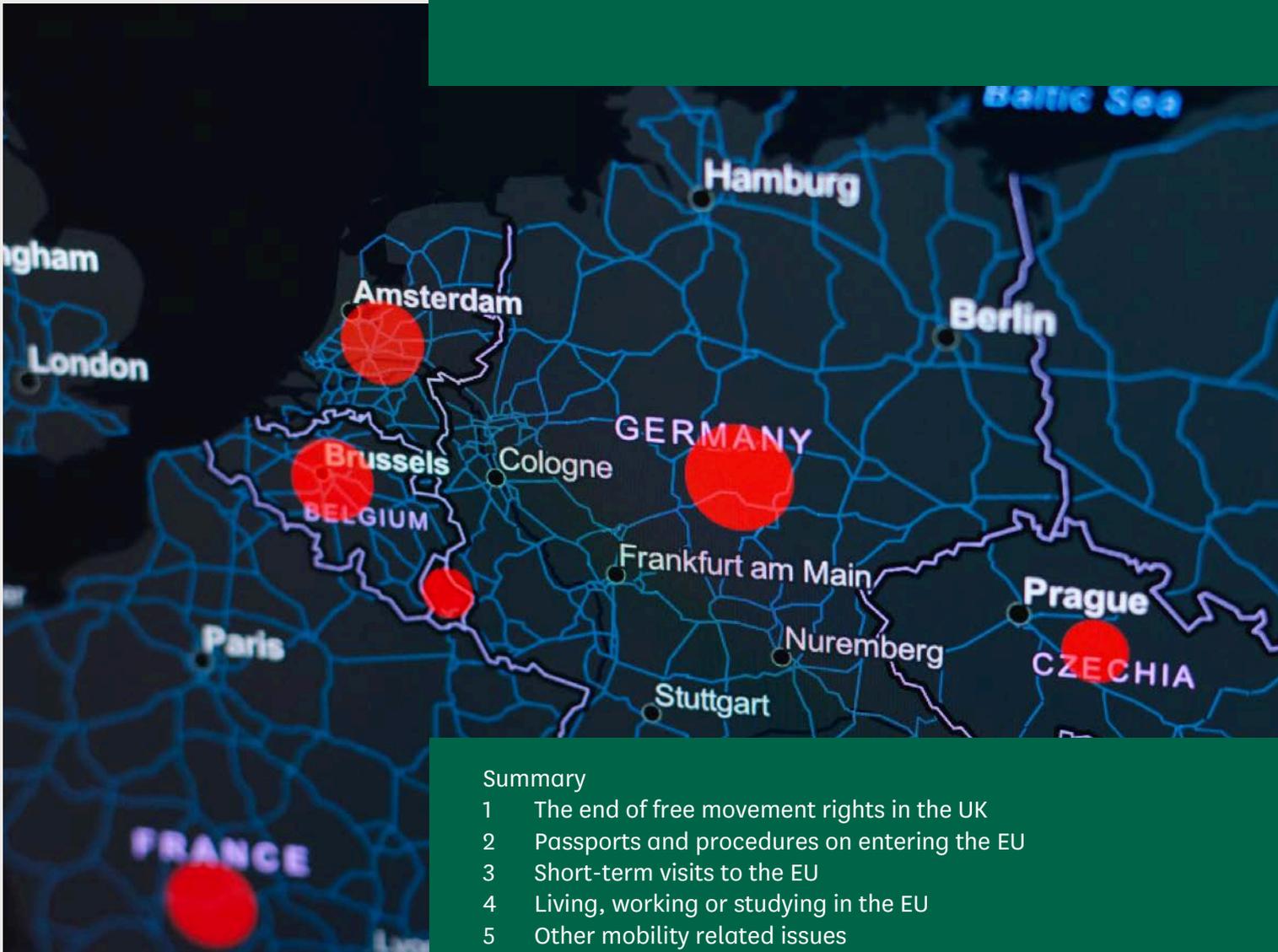


Research Briefing

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After Brexit: Visiting, working and living in the EU



Summary

- 1 The end of free movement rights in the UK
- 2 Passports and procedures on entering the EU
- 3 Short-term visits to the EU
- 4 Living, working or studying in the EU
- 5 Other mobility related issues
- 6 People with rights under the Withdrawal Agreement

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Summary

This briefing provides an overview of the implications of the UK's new relationship with the EU for people wishing to travel or move to the EU. It also highlights some useful sources of further information for constituents.

The briefing focuses on the broad requirements applicable to British citizens residing in the UK who wish to travel to the EU. It also refers to the UK's comparable requirements for EU citizens.

End of free movement rights

British citizens' EU citizenship and free movement rights ended when the Brexit transition period expired on 31 December 2020. Those rights had enabled them to visit, live, work or study in an EU Member State without needing a visa. They (and their family members) were able to claim a right to reside in the host Member State as a jobseeker, worker, student, self-employed or self-sufficient person or a family member, under the terms set by EU free movement laws.

Since 1 January 2021:

- British citizens still do not need to apply for a visa in advance of travel to the EU as a short-term visitor. The rules for short-term visits to most EU Member States are set out in the Schengen Borders Code. This allows stays within the Schengen area of up to 90 days in any 180-day period.
- British citizens' eligibility to live, work or study in an EU Member State depends on the host country's national immigration laws and visa requirements.

As an exception to the above, Brexit has not changed the visa and immigration requirements applicable to British citizens travelling to Ireland (and vice versa). These continue to be based on the Common Travel Area arrangements.

Passport and entry requirements for the EU

British citizens travelling to the EU must ensure that their passport satisfies two separate requirements:

- It must be valid for at least three months after the date the traveller intends to leave the EU country they are visiting. This can be ascertained by looking at the passport's expiry date.
- It must have been issued within the previous 10 years. This can be checked by looking at the passport's date of issue.

British citizens can no longer use the border control lanes for EU citizens and, usually, must have their passport stamped upon entry/exit to the EU. EU countries' border officials may ask to see supporting documents such as an invitation letter, proof of accommodation and finances, and a return or round-trip ticket when assessing whether to give permission to enter the country as a visitor.

EU plans for Entry/Exit and ETIAS schemes

A new EU Entry/Exit System (EES) is scheduled to be introduced from September 2022. This will be an automated IT system for registering travellers from the UK and other non-EU countries each time they cross an EU external border. Travellers will need to scan their passports and travel documents at an automated self-service kiosk prior to crossing the border.

The system will work in conjunction with the new ETIAS authorisation system, scheduled to launch in May 2023. British and other non-EU national citizens travelling to the EU for short stays will be required to obtain an ETIAS travel authorisation. This will be valid for three-year periods or until the holder's passport expires (if earlier) and will initially cost €7.

Mobility arrangements in the Trade and Cooperation Agreement

The UK-EU Trade and Cooperation Agreement (TCA) includes some commitments to facilitate travel for certain specified purposes. It provides arrangements for short-term business visitors; business visitors for establishment purposes; intra-corporate transferees; contractual service suppliers; and independent professionals.

But various reservations and exemptions apply. National immigration regulations, rules on work permits and employment regulations of the respective EU Member State must be observed. As a result, from 1 January 2021, UK business travellers are subject to the different regulatory regimes of each Member State. Likewise, EU business travellers are subject to the visa requirements specified in the UK's immigration rules.

Rights of British citizens living in the EU before 1 January 2021

British citizens who had been exercising free movement rights in an EU country before the end of the transition period have certain residence-related rights protected by the UK-EU Withdrawal Agreement (WA). The WA protections only apply in the person's country of residence. The WA does not give free movement rights throughout the rest of the EU. Each EU country has set its own procedures for confirming that a person has rights protected by the WA, within the parameters set by the WA. Some British citizens who have been living in an EU Member State might also be covered by other provisions in national or EU law with implications for their ability to move between EU countries.

1 The end of free movement rights in the UK

Since 1 January 2021, citizens of EU and EFTA countries who want to come to the UK have been subject to the same immigration rules as other non-British nationals. Similarly, British citizens seeking to travel to the EU became subject to the same visa requirements as other non-EU citizens.

This change has had significant and wide-ranging implications for the ease by which British citizens (and their family members) residing in the UK can travel to, live, work, or study in EU Member States compared to the previous free movement rights.¹

Ending the application of free movement of people laws in the UK (and by implication, to British citizens) was an objective pursued by successive UK governments following the 2016 EU referendum.

The ending of free movement rights enables the UK to apply the same immigration rules to citizens of EU and EFTA countries as apply to citizens of other countries.² Likewise, EU law now considers British citizens to be ‘third country nationals’ as it does for other non-EU states.

The UK did not propose extensive mobility-related arrangements with the EU during the Brexit negotiations. The extent of the citizens’ rights provisions in the UK-EU Withdrawal Agreement (WA) and the mobility-related provisions in the [UK-EU Trade and Cooperation Agreement](#) (TCA) reflect that position.

- The Citizens’ rights section of the WA protects rights of residence in the host state for British/EU citizens who were exercising free movement rights in the EU/UK before 1 January 2021.
- The TCA contains some limited provisions to facilitate business travel for certain specified purposes.

Brexit has not changed the visa and immigration requirements applicable to British citizens travelling to Ireland (and vice versa). This is because the WA and TCA are without prejudice to the separate immigration arrangements

¹ As noted on p.4, in this briefing, ‘EU’ means EU Member States except Ireland. EFTA comprises three states that form the European Economic Area with the EU (Norway, Lichtenstein and Iceland) plus Switzerland (which has a free movement agreement with the EU).

² This briefing focuses on the implications for British citizens who usually reside in the UK, rather than British citizens who have rights of residence in an EU Member State protected by the Withdrawal Agreement or under a Member State’s national immigration laws. Section 6 provides a brief overview of the implications of the Withdrawal Agreement for British citizens who were already living in the EU at the end of the transition period.

that apply for the UK-Ireland Common Travel Area. In this briefing, therefore, references to visa requirements for travel to the 'EU' and Member States do not apply to Ireland.

1.1

UK and EU negotiating positions

Visa-free travel for short visits and business travel

The UK and EU had both identified a reciprocal agreement to provide visa-free travel for short-term visits as a shared objective from an early stage in the Brexit negotiations.³

In February 2019 the European Council said that following Brexit, UK citizens coming to the Schengen area for a short stay (90 days in any 180 days) would be granted visa-free travel (see section 2.1).

The [EU's draft legal text](#) for the future trade and cooperation agreement with the UK published on 18 March 2020, proposed reciprocal visa-free short-term travel for British and EU citizens (Article MOBI.4). This would have allowed citizens to stay (and potentially work) in the EU/UK for at least 90 days in any 180-day period.

The EU's proposal would have allowed individual EU states to apply a visa requirement on British citizens if they were carrying out a paid activity during the visit. However, under the EU's proposal (Annex MOBI-1), Member States would not have been able to impose a visa requirement on certain categories of people: namely, people travelling for business deliberations; sportspeople or artists performing an activity on an ad hoc basis; journalists sent by the media of their country of residence; and intra-corporate trainees.

If a Member State chose to impose a visa requirement on British citizens doing a paid activity, the UK would have been able to reciprocate with a visa requirement for those nationals.

Title VI, Chapter four of the EU's draft legal text contained additional proposals for certain categories of business travel, within the context of broader provisions for trade in services and investment.

The UK's [proposed treaty texts](#), published in May 2020, did not include similar provisions on visa-free travel. The Government's February 2020 policy statement on the future points-based immigration system had confirmed its intention to implement visa-free travel for EU visitors through domestic legislation.⁴

³ It was reflected, for example, in the Political Declarations agreed by both the May and Johnson governments in [November 2018](#) and [October 2019](#) respectively.

⁴ Home Office, [Policy statement on the future points-based immigration system](#), February 2020

Chapter 11 of the UK's text set out proposals for business travel. The UK's draft text listed several annexes to chapter 11, which seemingly would have provided more details about the UK's proposals (e.g. categories of traveller that could have been exempted from visa requirements). The annexes have not been published. The Government resisted calls to publish them, arguing that this would be inappropriate because the information was exchanged with EU negotiators in confidence.⁵

Mobility of natural persons

As well as arrangements for business travel, the non-binding Political Declarations on the framework for the future UK-EU relationship of November 2018 and October 2019 had also agreed "... to consider conditions for entry and stay for purposes such as research, study, training and youth exchanges" during the course of the future relationship negotiations.⁶

Title XI of the EU's draft treaty text, on mobility of natural persons, included provisions for those groups. Article MOBI.5 had proposed reciprocal visa conditions to facilitate stays longer than 90 days by British/EU citizens, for the purposes of research, study, training and youth exchanges.

The UK's published proposed treaty texts did not include comparable proposals.

1.2

Mobility provisions in the TCA

There isn't a stand-alone chapter on mobility in the TCA akin to Title XI of the EU's draft treaty text.

There are agreements that facilitate some types of temporary business travel to support trade in services and investment. The arrangements provide a framework within which the UK and EU Member States can maintain their own visa requirements.

The provisions offer UK and EU professionals access to the market of the other Party. The Agreement includes commitments on:

- short-term business visitors;
- business visitors for establishment purposes;
- intra-corporate transferees;
- contractual service suppliers; and

⁵ [PQ UIN147050](#) [Entertainers: Work Permits], answered on 9 February 2021

⁶ See European Commission, [Revised text of the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom](#), 17 October 2019

- independent professionals.

However, various reservations and exemptions apply. National immigration regulations, rules on work permits and employment regulations of the respective EU Member State have to be observed. As a result, from 1 January 2021, UK business travellers are subject to the different regulatory regimes of each EU Member State. Likewise, EU business travellers are subject to the visa requirements specified in the UK's immigration rules.

Library briefing [The UK-EU Trade and Cooperation Agreement: Temporary Business Travel](#), November 2021, provides a more detailed overview.

The TCA also comments on the parties' positions on visa-free travel for short-term visits. Article 492 simply notes that each party is providing for visa-free travel for short-term visits in accordance with their domestic laws. It provides that each party shall give notice to the other if they intend to impose a visa requirement. Where the UK decides to impose a visa requirement for short-term visits on nationals of one EU state, that requirement shall apply to the nationals of all Member States (and the EU would presumably then reciprocate by imposing a visit visa requirement on British citizens). The TCA also includes a provision relating to future accessions to the EU. The UK and EU could agree transitional arrangements regarding the application of Article 492 to new Member States. Article 492 will not apply to a new Member State to the EU, unless the UK and EU have taken a decision on how it applies.⁷

1.3 Prospects for further discussions

Article 126 in Title II of the TCA provides for the parties to review, after five years:

- their legal framework relating to trade in services and investment,
- the provisions of the TCA provisions, and
- their non-conforming measures and reservations, i.e. exemptions to the commitments on services under the TCA.

Furthermore, Article 776 provides for a review of the TCA every five years. There are no provisions that would compel the parties to review the Agreement earlier.⁸

Some observers have speculated that, over time, there will be pressure to agree a more extensive set of mobility agreements, as the limitations of the

⁷ Article 781 (4) of the [Trade and Cooperation Agreement](#) sets out arrangements for how the UK and EU would take a decision on the application of Article 492 to a new Member State, including establishment of transitional arrangements.

⁸ Some aspects of the TCA can be subject to an earlier review (e.g. exemption from customs duties).

agreements in the TCA become more apparent to individuals and different sectors of the economy.⁹

Since the TCA was agreed there have been many PQs asking about the Government's intentions to pursue further discussions with the EU or individual Member States about visa/immigration requirements. Aside from the requirement for political will on each side, considerations of whether the EU has exclusive competence over the policy area in question also affect the UK Government's scope to engage in bilateral discussions with individual EU Member States.

Certain visa categories have attracted particular interest:

- **Youth Mobility:** Since reaching agreement on the TCA, the Government has restated an interest in negotiating a reciprocal youth mobility arrangement with the EU or individual Member States in the absence of an EU-wide agreement. But it does not comment on the status of negotiations and says it would only make announcements once agreements have been reached.¹⁰
- **Visit visas:** As discussed in section 2.1 of this briefing, the Government says that the EU's decision to treat British citizens in line with Schengen Borders Code provisions for Third Country Nationals is regrettable. But it has confirmed that it is not seeking to achieve enhanced short-term visit visa-free arrangements, whether through bilateral agreements with individual Member States, or further discussions with the EU.¹¹
- **Creative sectors:** The absence of provisions to facilitate temporary business travel for people working in the media/creative/arts and cultural sectors has been heavily criticised by stakeholders. Sector representatives have called on the Government to negotiate a bilateral and reciprocal EU-wide visa waiver agreement.

The Government has resisted those calls, saying that the implications of re-opening negotiations on the TCA and making a commitment that covered all current and future EU Member States would be incompatible with its manifesto commitments to retain control of UK borders.¹² It says that it is committed to supporting the sector to adapt to the new arrangements and that it has worked hard to clarify arrangements and encourage easements by individual Member States, with some successes.¹³

⁹ Politico.eu, '[How performers lost out in 'eye for an eye' Brexit talks](#)', 18 February 2021

¹⁰ [PQ UIN 150947](#) [Immigration: EU Nationals], answered on 11 November 2021; [PQ UIN 146737](#) [Youth Mobility Scheme], answered on 30 March 2022. The May Government had also proposed a reciprocal UK-EU youth mobility scheme as part of a broader mobility agreement: HM Government, [The UK's future skills-based immigration system](#), Cm 9722, December 2018, para 6.58

¹¹ [PQ UIN 142807](#) [European Union: Visas], answered on 1 February 2021; [PQ UIN141928](#) [British Nationals Abroad: EU Countries], answered on 27 January 2021

¹² [PQ UIN 172035](#) [Entertainers: EU countries], answered on 25 March 2021

¹³ [HL Deb 7 July 2022 c314-5GC](#)

2 Passports and procedures on entering the EU

2.1 Passport validity requirements

The EU's [Your Europe website](#) specifies the travel document requirements for non-EU nationals, including British citizens. There are two separate requirements to satisfy:

- The passport must be valid for at least three months after the date the traveller intends to leave the EU country they are visiting. This can be ascertained by looking at the passport's expiry date.
- The passport must have been issued within the previous 10 years. This can be checked by looking at the passport's date of issue.

The maximum validity period for adult British passports is 10 years. However, between 2001 and September 2018, some adult British passports were issued with more than 10 years' validity. This is because people who renewed their passport before it expired could have up to nine months' unused time added to their new passport. HM Passport Office ended that practice in September 2018. But for some people who renewed their passport before then, their passport's expiry date alone will not confirm that it is valid for entry to the EU.

2.2 Passport stamps and other supporting documents

British citizens can no longer use the border control lanes for EU citizens and must have their passport stamped upon entry/exit to the EU.¹⁴ The stamps evidence the passport holder's compliance with the 90-day visa allowance. People who do not have their passports stamped may be presumed to have overstayed their immigration permission. GOV.UK's travel advice pages say that people whose passports are not stamped can show border guards evidence of the dates and location of their previous entry/exit and request that the details be added to their passport.

¹⁴ Different requirements apply to British citizens living in EU countries as a family member of an EU national exercising free movement rights or with rights protected under the WA.

When assessing whether to allow a British citizen to enter the country as a visitor, EU countries' border officials may ask to see supporting documents such as an invitation letter, proof of accommodation and finances, and a return or round-trip ticket. The 'entry requirements' section of GOV.UK's travel advice pages provide some country-specific guidance.

Further sources to signpost constituents to

- Your Europe, [Travel documents for non-EU nationals](#)
- GOV.UK [Visit Europe from 1 January 2021](#)
- GOV.UK, [Foreign travel advice](#)

3 Short-term visits to the EU

3.1 EU requirements for UK nationals

British citizens still do not need to apply for a visa in advance of travel to the EU as a short-term visitor, due to a reciprocal short-term visitor visa waiver agreement between the UK and EU. The UK has been added to the EU's common list of countries whose citizens are exempt from the requirement to have a visa when crossing their external borders for short stays.¹⁵ However as summarised in section 2.2 above, border guards may ask them to provide evidence to demonstrate their eligibility for entry as a visitor at passport control.

Schengen area countries

British citizens are eligible for visa-free travel to the Schengen area for short stays (90 days in any 180 days).

This means they can travel throughout the 26 Schengen states for up to 90 days in any 180-day period.¹⁶ Visas for visits exceeding that period, or for other purposes (e.g. work or study) would depend on Member States' national provisions.

The EU is also in the process of introducing new electronic systems to check and authorise travellers to the EU, even where the visa-waiver for short stays applies (see below).

Visiting non-Schengen EU countries

The Schengen visa arrangements do not apply to the five EU Member States that are not part of Schengen: Bulgaria, Croatia, Romania, Cyprus and Ireland. Visits to those countries do not count towards the 90/180 day limit for travel within the Schengen area (or vice versa).

The non-Schengen countries have their own visa arrangements. However, Bulgaria, Croatia and Romania are [currently in the process of joining the Schengen area](#) and already apply most Schengen rules. Cyprus has also applied to join Schengen. Ireland remains in a Common Travel Area with the UK and has not sought to join Schengen.

¹⁵ [Regulation \(EU\) 2018/1806](#) (as amended)

¹⁶ The Schengen visa rules also apply for travel to Iceland, Norway, Switzerland and Liechtenstein (non-EU Member States that are members of the Schengen area).

1 Are there concessions for second home owners?

The Government did not seek special mobility rights for second-home owners during negotiations on the UK's future relationship with the EU.¹⁷

British citizens who have second homes in EU Member States are subject to the visit visa arrangements summarised above.

People who want to stay in an EU Member State for longer than 90/180 days would need to apply for a visa from the relevant country. The visa requirements for longer-term stays are determined by individual Member States. Further information on the requirements for longer stays in each EU Member State can be found on the Government's [living in the EU](#) pages.

Rules on purchasing and owning property are also determined by the individual Member States. The Government has also produced guidance on [buying a property abroad](#).

Second-home owners legally resident in the EU at the end of the Brexit transition period (31 December 2020) may have residence rights protected by the UK-EU Withdrawal Agreement, discussed in section 4 of this briefing.

ETIAS system

The EU intends to introduce a European Travel Information and Authorisation System (ETIAS). The EU originally planned to introduce this in 2022, but the introduction is now scheduled for May 2023.¹⁸

Under the ETIAS system, even visitors from countries with visa-free arrangements with the EU (including the UK) will have to get authorisation to visit the Schengen area. This is similar to the [ESTA system](#) for travel to the USA, where visitors pay a one-off fee for a travel authorisation which lasts for a set period of time. Applications for an ETIAS authorisation will be made online or via a mobile app. Applicants will be checked against EU information systems for borders and security. In most cases, a travel authorisation will be issued within minutes. However, some applicants may require further checks, which could delay authorisation for up to 30 days.

The ETIAS authorisation will last for three years (after which it will need to be renewed for future visits), or until the holder's passport expires (whichever is sooner) and will cost €7 (or free for under-18s).¹⁹ This compares to the US ESTA authorisation which has a duration of two years and costs \$21.

¹⁷ [PQ UIN 86691](#) [British Nationals Abroad: EU Countries], answered on 14 September

¹⁸ EU-Lisa [Revised timeline for the implementation of Interoperability](#), 11 December 2021

¹⁹ European Commission, Migration and Home Affairs, [European Travel Information Authorisation System](#), accessed 27 May 2022

The ETIAS authorisation will be valid for multiple visits for three years, but these still need to comply with the Schengen short-stay rule: visit for periods of up to 90 days in a 180 day period. Visits for longer periods (e.g. for work or study) will require a separate visa.²⁰

The UK intends to introduce a similar electronic travel authorisation ('ETA') system from 2023. It will apply to people transiting the UK and to all visitors who are from 'non-visa national' countries (such as EU states).²¹ It has not yet confirmed how much an ETA will cost or how long it will be valid for. The ETA system will be part of a broader 'permission to travel' scheme which will apply to everyone wishing to travel to the UK.

EU Entry/Exit system

The EU is also introducing a new Entry/Exit System (EES), scheduled to launch at the end of September 2022. This will be an automated IT system for registering travellers from third-countries, both short-stay visa holders and visa exempt travellers, each time they cross an EU external border. The system will apply to all non-EU nationals. The system will also operate in conjunction with the new ETIAS authorisation system, scheduled to launch in May 2023 (see above).

Travellers will need to scan their passports and travel documents at an automated self-service kiosk prior to crossing the border. The system will operate at all border crossings to the EU.

The system will register the person's name, type of the travel document, biometric data (for example, fingerprints and captured facial images) and the date and place of entry and exit. Entry and exit data will also be used for ensuring compliance with the 90/180 day Schengen short stay rule. It will record overstayers, and refusals of entry.

The new system will replace the current system of manual stamping of passports, which the European Commission describes as "time consuming" and not providing reliable data on border crossings or systematic detection of over-stayers (travellers who have exceeded the maximum duration of their authorised stay).²²

It will also operate for example at Eurostar terminals in the UK, because the UK has previously agreed with EU countries that border controls for passengers on the service will operate at the departure side of the service. Representatives of organisations involved in managing Channel Tunnel and border operations in the UK have raised concerns about how the new system

²⁰ For further information see: <https://www.schengenvisainfo.com/etias/> and <https://www.etiasvisa.com/etias-news/etias-visa-how-will-it-affect-uk-citizens>

²¹ See HM Government, [New Plan for Immigration: Legal Migration and Border Control](#), CP 706, July 2022, paras 56-58

²² European Commission, Migration and Home Affairs, [Entry-Exit System](#), accessed 27 May 2022

will be implemented and whether it will be ready in time.²³ The potential for the new system to cause delays at border control posts has also been raised by the Home Affairs Committee.²⁴

Further sources to signpost constituents to

- GOV.UK, [country-specific Foreign travel advice](#)/"Entry requirements" pages
- EU Member States' [UK-based diplomatic missions](#)
- European Commission/Migration and Home Affairs/ [Schengen, borders and visa](#) and related sub-pages
- European Commission/Migration and Home Affairs/[Short stay visa calculator](#) and related [user manual](#)

3.2 Comparable UK requirements for EU nationals

EU citizens are now treated as 'non-visa nationals' in the UK's Immigration Rules. This means they can travel to and seek entry to the UK as visitors without applying for a visa in advance of travel (instead, Border Force officials consider them for permission to enter when they arrive at UK passport control). This arrangement reflects the agreement to implement a reciprocal short-term visitor visa waiver.

The UK's Immigration Rules allow general visitors to stay in the UK for up to 180 days at a time. Unlike the Schengen visa rules, the UK's rules do not specify how visits must be spaced apart. In theory, a person who stays for 180 days can make a further visit soon after departing the UK. But the length and frequency of visits to the UK are relevant considerations for border staff when considering whether to allow someone to enter the country. A person who makes frequent or successive visits to the UK, with the effect that they would

²³ House of Lords Justice and Home Affairs Committee, Uncorrected oral evidence: [European Travel Information and Authorisation System](#), Tuesday 2 November 2021

²⁴ See [Letter from the Chair of the Home Affairs Select Committee to the Home Secretary on the new EU Entry-Exit System for the Port of Dover \(pdf\)](#), 16 June 2022 and [Response from Home Secretary to Chair of the Home Affairs Select Committee on the new EU Entry-Exit System for the Port of Dover](#), 4 July 2022

be living in the UK for extended periods of time, could be refused under the ‘genuine visitor’ requirement in the rules.²⁵

2 Why are the UK and EU visit visa allowances different?

Constituents often query why EU nationals can visit the UK for up to 180 days at a time, whereas UK nationals visiting EU Member States are limited to 90 days in any 180-day period.

The TCA provisions on short-term visit visa requirements simply note that each party will provide for visa-free travel in accordance with their domestic law.²⁶ The different visit visa conditions reflect the Parties’ longstanding different approaches to calculating short-stay visit visa allowances, which predate the TCA. Each Party’s offer is the same as the terms offered to visitors from other non-visa national/‘third’ countries.

The Government has said that it “understands” concerns about the impact of the 90/180 rule on British citizens who spend extended periods of time in the EU (such as second-home owners and recreational boaters). It says that the EU’s decision to treat British citizens in line with Schengen Borders Code provisions for Third Country Nationals is regrettable.²⁷

Visa arrangements for travel to the Schengen area were discussed during the course of the Brexit negotiations, but it is unclear to what extent the UK pushed for more generous arrangements.²⁸ Since reaching agreement on the TCA, the Government has said that it is not seeking bilateral agreements on visa-free travel with individual Member States, or further discussions with the EU on this.²⁹

²⁵ Immigration Rules, Appendix V, para V4.2

²⁶ UK-EU Trade and Cooperation Agreement, Article VSTV.1

²⁷ [PQ UIN 142807](#) [European Union: Visas], answered on 1 February 2021

²⁸ E.g. PQ UIN HL3246 [Visas], answered on 5 May 2020

²⁹ E.g. PQ [UIN141928](#) [British Nationals Abroad: EU Countries], answered on 27 January 2021

4 Living, working or studying in the EU

4.1 Business travel

As discussed in section 1.2 of this briefing and in Library briefing [The UK-EU Trade and Cooperation Agreement: Temporary Business Travel](#), the TCA provides a framework for immigration requirements for certain categories of business travel. But it doesn't establish uniform, EU-wide visa requirements. Instead, each country applies its own specific visa requirements.

Further sources to signpost constituents to

- GOV.UK Visit Europe from 1 January 2021/[Business travel](#)
- GOV.UK [Brexit checker](#)
- GOV.UK Guidance, [Selling services to the EU, Switzerland, Norway, Iceland and Liechtenstein](#)
- GOV.UK [Guidance for DCMS sectors on the UK's exit from the EU](#)
- EU Member States' [UK-based diplomatic missions](#)

For comparable UK visa requirements:

- GOV.UK, [Visas and immigration](#)

4.2 Living, working, or studying in the EU

The rules for longer-term stays (including for work or study purposes) and for residence in EU Member States involve the competences of Member States. Consequently, visa requirements vary between individual EU countries.

The EU Immigration Portal explains:

The EU and its Member States share the competence in the area of immigration. There are certain common immigration rules valid across the EU, while other aspects are determined by each EU country. This means that immigration rules are not identical in different EU countries and national authorities are best placed to reply to your detailed questions. **Residence permit applications must always be made to the authorities of the EU**

country you plan to move to. There is no European institution handling applications or issuing residence permits on behalf of individual countries.³⁰

EU nationals coming to the UK from 1 January 2021 are subject to the same UK visa requirements as non-EEA nationals. These are set out in the UK's immigration rules.

Further sources to signpost constituents to

- GOV.UK, [Living in Europe guide](#)
- European Commission, [EU Immigration Portal](#)
- EU Member States' [UK-based diplomatic missions](#)

For comparable UK visa requirements:

- GOV.UK, [Visas and immigration](#)

³⁰ EU Immigration Portal, General information/[Who does what?](#) (accessed 10 February 2021)

5

Other mobility related issues

The UK's withdrawal from the EU has led to several other changes that may impact on travel between the UK and the EU. The GOV.UK page on [Visiting the EU, Switzerland, Norway, Iceland or Liechtenstein](#) page includes information about changes to the rules on healthcare, driving, pet travel, mobile phone roaming, compensation for travel disruption and bringing food and plants into the EU, as well as an overview of visa and passport requirements.

6

People with rights under the Withdrawal Agreement

British citizens who were exercising free movement rights in an EU Member State before 1 January 2021 have the right to remain in their host state after that date, in accordance with the provisions in the UK-EU Withdrawal Agreement (WA), agreed in October 2019.³¹

The protections in the WA only apply in the person's country of residence. The WA does not give that protected cohort of British citizens onward free movement rights throughout the rest of the EU. Rather, they are subject to the same visa requirements as other British citizens.

Separate to the rights protected by the WA, some British citizens who have been living in an EU Member State might also be covered by other provisions in national or EU law with implications for their ability to move between EU countries.³² For example, a British citizen living in France with a French/EU family member might have rights protected by the WA and also have rights as a family member under French immigration law or the EU Free Movement Directive. The European Commission has confirmed that it is possible for a WA beneficiary to hold multiple immigration statuses under EU or national law.³³

British citizens who accumulate several years' residence in a host EU country might be eligible for a residence status under the host country's national rules on long-term residence, or under [the EU Directive on long-term residence for non-EU citizens \(Directive 2003/109/EC\)](#). The EU Directive on long-term residence includes some provisions to enable long-term residents to exercise a right to reside in another Member State for longer than three months. There are EU proposals to reform this Directive. However, the rules will remain more restrictive than the comparable rights given by EU free movement of people laws.³⁴

³¹ People with 'derivative rights' under EU law are excluded from the scope of the WA.

³² This briefing does not consider in detail the position of British citizens living in the EU. Individuals should seek professional legal advice to clarify their legal status and entitlements in their country of residence and throughout the EU under the WA or national or EU laws.

³³ European Commission, '[United Kingdom nationals and multiple immigration statuses](#)' (undated; also published on British in Europe, '[European Commission Updates on BiE advocacy](#)', 21 March 2022)

³⁴ See EU Law Analysis, [Long-term resident non-EU citizens: the EU Commission's new proposal \(part 1\)](#), 13 May 2022; and EU Law Analysis, [Poundshop free movement? Long-term resident non-EU citizens: the EU Commission's new proposal \(part 2\)](#), 15 May 2022

6.1

UK-EU Withdrawal Agreement

The citizens' rights section of the WA (Part Two) sets out the framework for British/EU citizens' continued legal residence in an EU state/the UK. It provides for the right of permanent residence), and associated rights, such as to social security and healthcare.

Article 15 confirms that EU/UK nationals and their family members acquire rights of 'permanent residence' after accumulating five years' continuous lawful residence in accordance with EU law, or the period specified in Directive 2004/38/EC (the 'Citizens' Directive), before or after the end of the transition period. **Article 16** allows those who have not yet resided in their host state for five years to acquire permanent residence under Article 15 when they meet those requirements.

The same rules apply to UK citizens in an EU Member State and EU citizens in the UK. But **Article 18** permits states to adopt either a 'declaratory' or 'constitutive' system for verifying an individual's rights. As a result, the processes for verifying an individual's rights under the WA vary between state.

The UK and some EU countries have chosen to apply constitutive systems. This means that their EU/UK residents must successfully apply for a new residence status to have the protections set out in the WA. The other EU countries have adopted declaratory systems, meaning that resident British citizens are not required to make an application to have the rights provided for in the WA.

6.2

British citizens and family members living in the EU before 2021

As noted above, each EU Member State must adhere to the WA's legal framework for protecting the rights of residence of British citizens and eligible family members who were resident before the end of the transition period. But states have discretion to require British residents to register for a new residence status. Therefore, the specific application requirements and related deadlines vary between EU states.

The European Commission has published details on its website on the relevant process in each Member State for UK citizens applying for new residence status (where applicable) and residence documents, and links and contact details for further information and support in the Member States. See European Commission, [Information about national residence schemes for each EU country](#).

A [table on the European Commission, Citizens' rights webpage](#) (PDF) also provides an overview of implementation of these systems in each Member

States. This includes whether they use declaratory or constitutive systems, dates from which residence documents could be applied for, and deadlines for UK citizens in constitutive systems to apply for their new residence status.

Even in states applying declaratory systems, whereby resident UK citizens obtained their new residence status automatically, there were requirements to register with national authorities and apply for a new residence document. This was an administrative formality to help citizens certify their new residence status.

The UK Government has raised concerns regarding the process in some EU Member States for granting residence rights to UK citizens. This includes concerns relating to how UK citizens provide evidence of their status (in the absence of the need to apply for a new residence status) in declaratory states and how they access benefits and services in some Member States. The UK Government has requested that the EU emphasise the need for clear guidance in declaratory Member States. It has also asked for a more “pragmatic and flexible” approach in constitutive Member States, and greater clarity around policies for late residency applications.³⁵

Comparable requirements for EU nationals and family members resident in the UK

The UK is implementing the citizens’ rights provisions of the WA through the EU Settlement Scheme (EUSS). The EUSS is a ‘constitutive’ system. This means individuals must successfully apply to the EUSS to have the protections set out in the WA.

EU citizens (and their family members) had to apply to the EUSS by 30 June 2021. In accordance with Article 15 of the WA, the scheme grants eligible applicants either settled or pre-settled status, depending on whether they have already accrued 5 years continuous residence in the UK. Settled status gives a permanent right to reside in the UK. Pre-settled status allows the holder to remain in the UK for a further 5 years from the date granted pre-settled status. This provides the necessary time for applicants to become eligible for settled status. Holders of pre-settled status can then switch to settled status, subject to the eligibility requirements, by submitting another application. Library briefing [The EU Settlement Scheme](#) provides more detailed information.

Useful further sources to signpost constituents to

- European Commission, The EU-UK Withdrawal Agreement: [Citizens’ rights](#)

³⁵ See UK-EU Withdrawal Agreement Specialised Committee on Citizens’ Rights, [Joint UK-EU statement following the ninth meeting of the Specialised Committee on Citizens’ Rights](#), 24 January 2022.

- GOV.UK, [Living in Europe](#)
- [British in Europe](#) (a coalition of grassroots citizens' organisations representing UK citizens living in the EU. The organisation is no longer active. Information remains available on the website for reference purposes but is not being updated).

For EU citizens living in the UK:

- GOV.UK, [Continue to live in the UK if you're an EU, EEA or Swiss citizen](#)
- [The 3 Million](#) (a campaign organisation for EU citizens in the UK)

6.3

Agreements between UK and EEA and Switzerland

When the UK was an EU Member State, British citizens also had broadly similar free movement rights with the four EFTA states. These are: Iceland, Liechtenstein, and Norway which form the European Economic Area (EEA) with the EU; and Switzerland, which has a free movement agreement with the EU.

For summary guidance on the implications for British citizens of successor arrangements for business travel to those countries, see:

- GOV.UK, Guidance: [Iceland: providing services and travelling for business](#)
- GOV.UK, Guidance: [Norway: providing services and travelling for business](#)
- GOV.UK: Guidance: [Liechtenstein: providing services and travelling for business](#)
- GOV.UK, Trade with Switzerland from 1 January 2021/[Trade in services](#)

British citizens living in the EEA/Switzerland before 1 January 2021

Similar to the Citizens' rights provisions in the WA, the UK has made agreements with the EEA states and Switzerland to protect the rights of residence of British citizens who moved to the EEA/Switzerland (and vice versa) before 1 January 2021. See:

- [UK-EEA Separation Agreement](#)
- [Swiss Citizens' Rights Agreement](#)

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