



GMS Flash Alert

Immigration Edition

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Poland - Brexit: Immigration Consequences for U.K. Nationals

On 1 January 2021, U.K. tax residents in the Republic of Poland will no longer be considered as EU tax residents. When the Brexit transition period ends 31 December 2020, the United Kingdom will no longer be treated as a member state of the EU and it becomes subject to immigration rules relevant to third countries.

This GMS *Flash Alert* provides an update on the current Polish immigration procedures for U.K. citizens in relation to Brexit and its effect in the Republic of Poland.

WHY THIS MATTERS

Certain actions will need to be taken before 31 December 2020, to help ensure that U.K. nationals living and working in Poland and their employers are compliant in the post-Brexit era.

U.K. nationals in Poland pre-Brexit or planning to travel to Poland post-Brexit to take up work and/or residence, are advised to discuss their situations and plans with immigration counsel and/or their global mobility advisers and tax professionals.

Background

On 31 January 2020, the United Kingdom ceased to be a member state of the European Union (EU) and its exit is regulated by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (hereinafter "Withdrawal Agreement" or "Agreement") negotiated and ratified by both parties.¹ This Agreement entered into force on 1 February 2020, and its transitional period ends 31 December 2020. During the transitional period, EU legislation on free movement has continued to apply and all rights will remain in place until 31 December 2020, as if the United Kingdom is still a member of the European Union.

General Rules

During the Brexit transition period, the rules of stay and work of U.K. nationals in Poland remain unchanged. As of 1 January 2021, U.K. nationals and their family members will keep the right to reside in Poland,² if:

- they exercised the right of stay in Poland in accordance with EU law before the end of the transition period;
- they still reside in Poland.

In principle, the right of permanent stay will be granted after five years of uninterrupted residence (in accordance with EU law, under the conditions laid down in Directive 2004/38/EC).³ Periods of legal residence or work in accordance with EU law falling before and after the end of the transition period will be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence.

A document with an annotation that it was issued in accordance with the Withdrawal Agreement will be a confirmation of the right of residence or the right of permanent residence.

Documents will be issued by voivodship offices [*urzędy wojewódzkie*] competent for the place of stay of U.K. nationals.

Important Considerations

- Existing documents will remain valid until 31 December 2021 at the latest;
- Documents issued before 31 December 2020, will play an important evidentiary role when assessing whether one had enjoyed the right of stay at the end of that period;
- Presence in the territory of Poland on 31 December 2020, is not required to enjoy the right of stay. Absences are allowed for the purpose of obtaining the right of permanent residence;
- Procedures for registration of stay initiated in 2020 will be continued in 2021. Certificate of application and new documents will be issued (once the applicant's fingerprints are taken);
- Beginning 1 January 2021, U.K. nationals who are not the beneficiaries of the Withdrawal Agreement will need a work permit to legally work in Poland.
- To enjoy the right of stay for periods exceeding three months, U.K. nationals must meet at least one of the following conditions:
 - Be an employee (excluding posted workers) or a self-employed individual working on the territory of Poland;
 - Have sufficient financial resources to support themselves and their family members in the territory of Poland, so as not to be a burden for the social assistance system, and have adequate health insurance (as specified by legislation);
 - Be a student or undergoing vocational training in Poland along with having sufficient financial resources to support themselves and their family members in the territory of Poland, so as not to be a burden for the social assistance system, and having appropriate health insurance (as indicated above);
 - Be a spouse of a Polish citizen.

Special Case: Posted Workers

- U.K. workers posted in Poland until 31 December 2020, are outside the scope of the Withdrawal Agreement;
- From 1 January 2021, they will be able to apply for a special temporary residence permit with a five-year validity period (application deadline: 31 December 2021) and afterwards they will be able to apply for a permit for permanent residence in Poland;
- Their right to stay will remain valid “ex lege” until 31 December 2021;
- They will be also exempted from the work permit requirement.

Special Case: Extended Family Members

- Residence permits of the U.K. nationals’ extended family members remain valid;
- They may reapply for a residence permit (card) with a special annotation referring to the Withdrawal Agreement.

An applicant for document replacement or for a new residence document will get a certificate of submission of an application for a Withdrawal Agreement beneficiary document (this relates to applications submitted by 31 December 2021), valid for one year, to facilitate movement across EU member states.

FOOTNOTES:

1 For related coverage of Brexit and the Withdrawal Agreement and immigration matters for U.K. nationals, see other Brexit reports in GMS *Flash Alert*, at: <https://home.kpmg/xx/en/home/insights/2015/09/flash-alert-brexit.html>.

For more on the EU-U.K. Withdrawal Agreement, see: https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement_en.

2 For more information, see “Withdrawal agreement and transition period” (at: <https://udsc.gov.pl/en/cudzoziemcy/brexit/rules-of-stay-of-british-citizens-in-poland-after-brexit/withdrawal-agreement-and-transition-period/>) and “Rules of stay of British citizens in Poland after Brexit” (at: <https://udsc.gov.pl/en/cudzoziemcy/brexit/rules-of-stay-of-british-citizens-in-poland-after-brexit/>) and “Brexit – pobyt obywateli Wielkiej Brytanii po okresie przejściowym” (in Polish, at: <https://udsc.gov.pl/brexit-pobyt-obywateli-wielkiej-brytanii-po-okresie-przejsciowym/>) on the website of The Office for Foreigners (Urząd do Spraw Cudzoziemców).

3 For the Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004, click [here](#)

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The information contained in this newsletter was submitted by the KPMG International member firm in Poland.

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